



COMMUNITY UNITED AGAINST VIOLENCE

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UNI-SAFE (864-7233)

December 13, 1985

Tom Coleman
P.O.Box 65756
Los Angeles, CA 90065

Dear Tom:

Enclosed is the news article I promised to send you about the mysterious death of Timothy Lee. Lee's body was found hanging in a vacant lot in Concord. As is evident from the article, it is not a clear cut suicide. Further complicating the fact that the "suicide" note left by Lee included misspellings of his and his family member's names, is that Concord Police will not investigate the matter. I understand that the Concord Coroner's office burned the strap from which Timothy Lee was found hanging.

I am hoping that you will bring this matter to the Attorney General's Commission on Minority Violence. Ultimately, I would like to see an outside investigation of Timothy Lee's death. Perhaps this is something the Attorney General could do.

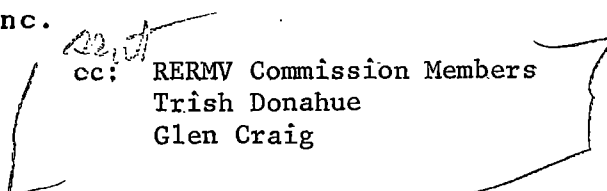
Thanks for your help.

Sincerely,


Diana Christensen
Executive Director

DZC:bh

Enc.


cc: RERMV Commission Members
Trish Donahue
Glen Craig

Mystery shrouds hanging death of Berkeley student

By Amanda Covarrubias
The Tribune

CONCORD — At 23, Timothy Lee had everything to live for.

The Berkeley resident was a promising fashion design student. He had recently landed a part-time job designing textiles in San Francisco. And he had just been awarded a scholarship to study in Milan, Italy, next year.

But Lee's body was found hanging from a fig tree last Saturday in an empty lot near the Concord BART station.

To the Concord Police Department, the case is closed. The investigation, said Detective Tony Costa, showed that young Lee killed himself.

But Lee's family and friends, who gathered for his funeral in Oakland yesterday, believe he was murdered. To prove it, they plan to have an independent autopsy conducted on the body, which was not buried yesterday.

They believe Lee, who was black and gay, was the victim of racism and homophobia in a city he seldom visited, 35 miles from home.

"He had himself down and together," said his sister, Tammy Lee, 22, of Berkeley. "It was too violent. He's not a violent person. He wouldn't have done it without telling me. We were like twins. He would have cried out and said something."

"Tim is not the type of person who would have committed suicide," said Judith Kindler, owner of Judith Kindler Textile Designs in San Francisco, where Lee worked part time while studying at the San Francisco Academy of Art.

"Tim was obviously gay. All he had to do was move and you knew he was gay. It looks like they're just singling out a gay, black guy who was in Concord."

But Diane Longshore, Concord's vice mayor, defended the city against such sentiment.

"Are there not murderers of black guys and suicides of black guys in other communities? I really seriously doubt it," she said.

Concord has 94,051 whites and 1,749 blacks, according to 1980 census figures from the state Department of Finance.

"It doesn't add up, it doesn't make sense," said Lee's father, Robert Lee, who flew from his home in Tennessee to attend the funeral yesterday.

Timothy Lee, who had recently received a scholarship to study fashion design in Italy,

See MYSTERY, Page B-2



Timothy Lee
Promising fashion student

Delta water safeguards are urged

By Carol Bentell
The Tribune

CONCORD — Environmentalists told state and federal water officials yesterday that without specific legislation protecting Delta water standards they cannot support a highly touted agreement to operate the state's water systems under one management.

Their statements came in the wake of reported foot-dragging by the Reagan administration and the prospect of a vote on the legislation next week by the Republican-controlled Senate.

John DeVito, general manager of the Contra Costa County Water District, said the Coordinated Operating Agreement is meaningless without legislation carried by Rep. George Miller, D-Martinez.

The EIR and the agreement require the federal government to meet only present water standards, which are clearly inadequate to protect the quality of drinking water for Contra Costa County, DeVito said.

Lori Griggs, representing the water policy committee created by Contra Costa County Supervi-

See DELTA, Page B-3



By Gary Reyes/The Tribune

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Oakland TRIBUNE

11/8/85

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MYSTERY

Continued from Page B-1

was found hanged from a tree last Saturday afternoon in a vacant lot on Mount Diablo Road, a block away from the final BART terminal on the Concord line.

He was wearing jeans and a blue tank top. His green knapsack was lying on the ground near the tree trunk, along with a suicide note scrawled on the back of an envelope.

According to his sister, Tammy, he left San Francisco on BART late Friday night. He apparently fell asleep on the train and was awakened by a BART worker who told him to disembark because BART was closing for the night.

That's when he apparently wandered over to the empty lot. According to the police report, a witness saw Lee walking around the area as late as 9 Saturday morning.

But after talking with a witness herself, Tammy Lee believes her brother was walking to the house of a friend, who lives a few miles from the BART station. She thinks he was accosted en route and killed in the lot where his murder was set up to look like a suicide.

Costa, who investigated the case, concluded Lee took his own life.

"There was no trauma to the body," Costa said. "If he were unconscious, he would have had some sort of trauma. But there was nothing around to suggest there was a struggle. If someone tried to hang you, wouldn't you put up a fight?"

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NOW IS THE TIME

Costa said Lee's wallet, which was lying on the ground a few feet away from the tree, contained credit cards and \$8 in cash.

"If he wanted to get home or to a friend's house, he could have taken a cab," the detective said.

But Tammy Lee and Maxine Johnson, a longtime friend of Lee's, said he attempted to call several other friends, who weren't home on Friday night, and left messages that he needed a ride.

Johnson said Lee talked to one friend's mother, who promised to call him back when she arranged a ride for him. Apparently, he never received that call.

The detective responded, "In suicides, there's always a lot of guilt among relatives and friends afterwards. No one came to pick him up.

"If the family could give me one bit of evidence that would lead us to believe otherwise, I would be more than happy to reopen the case."

Lee's family also point to the suicide note, which they claim is not in his handwriting and which contains misspellings of his sister's and brother's names — and the incorrect signature for him-

self.

The note reads: "To Tami and Tom, I love you and I'm sorry. Love Timmy."

Tammy Lee said Lee never referred to their brother, Thomas Lee, 24, as "Tom." Furthermore, she said, Lee always signed his name "Tim," never "Timmy."

Tammy Lee and his friends say the young artist was too much of a perfectionist to have left behind such a sloppy note.

The police department will have the note examined by a handwriting analyst, common procedure in suicide cases, Costa said yesterday.

The detective, who said he has dealt with many suicide and suicide attempts, said despondent individuals on the brink of taking their lives are not thinking clearly to begin with and will often produce illegible, incoherent suicide notes riddled with misspellings.

But Richard Seiden, a former professor of psychology at UC Berkeley, who has done research

on suicidal behavior, had this to say:

"I never heard that theory advanced before. Do people forget how to spell when they're despondent? No."

Seiden noted, however, that success can also be stressful. "You find a person with vacation tickets in his pockets who just shot himself. Who knows?"

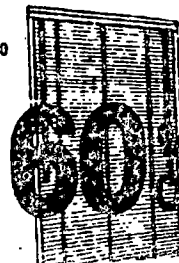
Although the Contra Costa County coroner's report states that small abrasions on Lee's arms are ant bites, Tammy Lee and other relatives who identified the body said the marks looked like cigarette burns or cuts resulting from a struggle.

At Lee's funeral yesterday in Oakland, friends and relatives were still reeling from the unexpected death.

"I worked side by side with him everyday," said Didi Puma, "and I know him pretty well. I saw him when he was depressed, and he was not depressed when I saw him Thursday. I am not convinced this guy committed suicide."

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Memorandum

To : Marty Mercado, Coordinator
RERMV Commission
Attorney General's Office
Sacramento

Date : December 23, 1985

File No.:

From : Louis Verdugo, Jr.
Civil Rights Enforcement Unit
Office of the Attorney General
LOS ANGELES

Tel. ATSS 8-677-2610
(213) 736-2610

Subject : Vagueness or Overbreadth of Ralph Civil Rights Act

During the legislation subcommittee meeting at Los Angeles on December 10, 1985, the subcommittee members requested that we look into the concern that Commissioner Coleman raised at the last Commission meeting relative to the constitutionality of the Ralph Act, as amended by Statutes 1985, chapter 497. (Assembly Bill 2311.) In that enactment, the Ralph Act was amended to declare that the particular bases of discrimination set forth in Civil Code section 51.7 were illustrative and not restrictive. Commissioner Coleman raised the question of whether such amendment rendered the Ralph Act unconstitutionally vague or overbroad. Below I will set forth a brief response to this question. This response is informal and in no way should be considered as a formal opinion by this office. Moreover, the contents of this memorandum should be considered confidential and protected by the attorney-client privilege.

Civil Code section 51.7, as amended by Statutes 1985, chapter 497 reads in its entirety:

"(a) All persons within the jurisdiction of this state have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation, age, disability, or position in a labor dispute. The identification in this subdivision of particular bases of discrimination is illustrative rather than restrictive.

"(b) As used in this section, 'sexual orientation' means heterosexuality, homosexuality, or bisexuality." (Emphasis added.)

Marty Mercado, Coordinator
December 23, 1985
Page 2.

The focal point of the constitutional inquiry is whether expansion of the Ralph Act, to include within its protection innumerable and unidentified groups, has rendered the Act unconstitutionally overbroad and/or vague.

In determining whether a statute is unconstitutionally overbroad and/or vague, the United States Supreme Court has been guided by a two-part test. First of all, it must be determined whether the statute reaches a substantial amount of constitutionally protected conduct. If a statute does reach such conduct, it is unconstitutionally overbroad. Second of all, if the enactment does not implicate any constitutionally protected conduct and therefore, is not overbroad, then the question of vagueness can be resolved by determining whether the statute is vague in all its applications. (See Hoffman Estates v. Flipside Hoffman Estates (1982) 455 U.S. 489, 494.)^{1/}

In applying part one of the foregoing test, it appears that the Ralph Act would not be susceptible to a constitutional attack based on overbreadth. Civil Code section 51.7 creates a statutory right for all persons in California to be free from violence and intimidation by threat of violence where such intimidation or violence is motivated by any form or type of discrimination. Simply stated, the conduct proscribed by the Ralph Act is violence and intimidation by the threat of violence committed with some discriminatory motive. The lack of any constitutional right to engage in such conduct is manifest.

Part two of the test requires us to determine whether the statute is vague in all its applications. The standards to be used in determining whether the statute is vague are:

1. Does the law give a person of ordinary intelligence a reasonable opportunity to know what is prohibited so that he may act accordingly? and
2. Does the law provide explicit standards for those that are to apply the law?

(See Grayned v. City of Rockford (1972) 408 U.S. 104, 108, 109.)

^{1/} See also Bamboo Brothers v. Carpenter (1982) 133 Cal.App.3d 116, 126-127.

Marty Mercado, Coordinator
December 23, 1985
Page 3.

It would appear that Civil Code section 51.7 could survive a constitutional attack on the basis of vagueness. A strong argument can be made that Civil Code section 51.7 meets the standards set forth in Grayned. First of all, section 51.7 can be reasonably construed to prohibit any act of violence or intimidation by threat of violence which is motivated by any type of discrimination. The language of the statute is fairly clear and would appear to give adequate notice to the public as to what is prohibited. Secondly, as discussed below, the Act does contain explicit standards to be followed in determining whether a violation of the Act has occurred.

The statute uses the phrases "because of" and "bases of discrimination." Clearly, the term "because of" requires a determination of motive. By including the term "bases of discrimination," the Legislature has required that the motive be some form of discrimination. All the Legislature has done by amending section 51.7 is to provide protection for those who are singled out or discriminated against on bases other than the traditional bases such as color, religion or sexual orientation. For example, persons who are singled out for a violent act because they are punk-rockers or long-hairs are now protected. Motivation and discrimination, which prior to the recent amendment of the Ralph Act were the standards used to determine whether a Ralph Act violation had occurred, are still the keys to a Ralph Act claim.^{2/} For the foregoing reasons I believe that section 51.7, if reasonably interpreted, both advises the public what is proscribed and provides

^{2/} It should be noted that the Unruh Civil Rights Act, Civil Code section 51, which prohibits discrimination by business establishments, has been judicially construed to prohibit discrimination on bases other than those listed in the statute. While the court in In re Cox (1970) 3 Cal.3d 205 did not address the issue of whether section 51, if so construed, would be unconstitutionally vague, it is highly unlikely that the court would have reached its conclusion if such a construction were constitutionally infirm.

Marty Mercado, Coordinator
December 23, 1985
Page 4.

the standards to be used in determining whether a violation under the Act has occurred.

Accordingly, I do not believe that the Ralph Act, as amended, is void for vagueness.

A handwritten signature in dark ink, appearing to read "Louis Verdugo, Jr.", with a stylized, cursive script.

LOUIS VERDUGO, JR.
Deputy Attorney General

LV:jc



Office of the Attorney General

1/3/86

Bishop Hergfeld -

I have asked John Estele
and David Holt (see attached)
to meet and brief Education
Subcommittee on Tuesday
evening at 7:30 -

Please call if you have
any questions -

Marty

cc: Msgr. Barry

Marty Mercado

Chief, Office of Community and Consumer Affairs

(916) 324-7859



**Unitarian Universalist
Service Committee**

1251 Second Avenue
San Francisco, California
94122 USA
(415) 731-3300—

Crime and the
News Media

October 30, 1985

647-1890

Marty Mercado
Chief, Office of Community and Consumer Affairs
Department of Justice
Office of the Attorney General
1515 K Street, Suite 511
Sacramento, CA 95814

Dear Marty:

I enjoyed our phone conversation yesterday and I'm excited about the prospect of Crime and the News Media establishing a fruitful relationship with the Commission on Racial, Ethnic, Religious and Minority Violence.

To give you a little more background on Crime and the News Media, I'm enclosing a brief project description as well as a copy of the project advisory board. In addition, I should mention that the program is funded by the San Francisco Foundation and is affiliated with the Unitarian Universalist Service Committee's National Moratorium on Prison Construction.

As I said over the phone, an essential part of our educational effort will be to raise issues of race and class with the news media in terms of their reporting on crime and justice issues. Generally speaking, the picture the media presents to the public regarding minority problems and concerns is a very distorted one. It will take an ongoing and concerted effort from many different quarters to initiate progressive change in this area. That is why it was gratifying to speak with you and hear that your commission shares similar concerns.

As I said on the phone, January will be a good time for our program to interact with members of your commission. In the meantime, I will keep you updated on our project's development. If you have any questions about our program, please call or write me. In addition, if you have any literature or background information on your commission, I would appreciate it if you could send it to me.

Thanks for your interest in our program, Marty. I'm glad Hazel put us in touch with each other.

Sincerely,

John Esterle
Director, Crime and the News Media

1/3/86
Spoke to
David Bolt -
He & John will
make presentation
next evening 1/14



**Unitarian Universalist
Service Committee**

1251 Second Avenue
San Francisco, California
94122 USA
(415) 731-3300

CRIME AND THE NEWS MEDIA PROJECT DESCRIPTION

Crime and the News Media is a non-profit program that was established in August, 1985 to encourage more informative and more broadly focused reporting on crime and criminal justice issues. For the news media to become better informed about these complex and crucial issues, it is fundamental that opportunities for education and dialogue be established between the news media and the wide variety of individuals and organizations which are in some way involved with crime and justice issues. To help meet this need, Crime and the News Media was formed to better acquaint members of the local media with information, resources and contacts that they may not be aware of.

The news media significantly influence public attitudes about crime and the criminal justice system. For this reason it is imperative that news organizations offer accurate and in-depth reporting that informs rather than sensationalizes, that provides context as well as headlines, and that covers not only traditional approaches to dealing with crime, but desperately needed alternatives as well. It is this sort of reporting that Crime and the News Media is committed to encouraging.

To work towards this aim, Crime and the News Media will develop and produce a resource packet designed for the news media, while simultaneously monitoring local news coverage (selected print, radio and television organizations) in order to obtain a representative record of their reporting on crime and justice issues. The data and printed information from these research efforts will then be incorporated into a series of seminars which will be presented to local news media professionals early next year.

Journalists and a variety of experts on the criminal justice system, the sociology of crime, alternative sentencing, prison reform, and other topics will serve as resource speakers in focused discussions conducted by project staff. These seminars will be presented in the offices of local news organizations and at professional association meetings and will be targeted towards news editors, news directors and reporters.

The problem of crime in our society, and the response of the criminal justice system and various communities to it, are matters that the public cannot afford to be uninformed or misinformed about. As a pilot educational program and resource service, Crime and the News Media will hopefully help local news organizations do the best job they possibly can in reporting a complex and difficult issue that needs to be understood rather than feared.



**Unitarian Universalist
Service Committee**

1251 Second Avenue
San Francisco, California
94122 USA
(415) 731-3300

**CRIME AND THE NEWS MEDIA
ADVISORY BOARD**

Ben Bagdikian - Dean of the school of journalism at the University of California, Berkeley; author; former reporter and assistant managing editor, Washington Post.

William Carlsen - Legal reporter with the San Francisco Chronicle; former reporter with the New York Times.

Ellis Cose - President of the Institute for Journalism Education at the University of California, Berkeley; journalist.

Jim Galvin - Former research analyst with the National Council on Crime and Delinquency; former editor of Crime and Delinquency, a professional journal.

Naneen Karracker - Criminologist; former staffperson with the Unitarian Universalist Service Committee's National Moratorium on Prison Construction; original developer of the UUSC Crime and the News Media project.

Rudy Marshall - President of the Bay Area Black Media Coalition, the local affiliate of a national civil rights organization which works to broaden access of Black Americans to the communications industry.

John Phillips - Management consultant, formerly with the Pacific Consulting Group in Palo Alto, with special expertise in adult education.

Judith Robinson - Writer; former editorial writer for the San Francisco Examiner; journalist; former U.S. Senate legislative aide.

Raymond Shonholtz - Founder and director of the San Francisco Community Boards Program, a mediation service.

Rev. Stan Stefancic - Former minister of the First Unitarian Church of San Francisco; member of the UUSC Board of Directors.

William Bennett Turner - Attorney with expertise in major prison litigation; legal reporter for KQED-TV, San Francisco.

Fred Zehnder - News Director for KTVU-TV, Oakland; former local representative for the Radio and Television News Directors Association.

ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS, AND MINORITY VIOLENCE



John Van de Kamp
Attorney General

COMMISSIONERS

Msgr. William J. Barry, Chair
Los Angeles

December 26, 1985

Joaquin Avila
San Francisco

Irma Castro
San Diego

TO: RERMV COMMISSION

Richard Chavez
City of Commerce

HOLIDAY GREETINGS!

Thomas F. Coleman
Glendale

Vincent Harvier
Sacramento

Enclosed are the minutes of the Fresno meeting.

Rev. Will L. Herzfeld
Oakland

**REMINDER: January meeting - January 15, 1986
Holiday Hotel - Oakland Airport**

David Kassoy
Los Angeles

Janet Levy
Sacramento

I had discussed with some of you the possibility of meeting in San Francisco instead of Oakland. However, because of fog conditions, we have opted for the "sure thing" and have scheduled the meeting in Oakland.

Judge Alice Lytle
Sacramento

John Mack
Los Angeles

We had agreed that the full day would be need^{ed} to review and approve each of the recommendations which will go in to the final report. However, because we have not had testimony from any of the Native American groups, I have scheduled Vincent Harvier to make a presentation on their problems and suggested recommendations. In addition, I have scheduled some time for a brief presentation by Dr. Ramiro Reyes, Department of Education liaison to the Commission, for an update on our request to Superintendent Honig for consideration of cultural relations training as part of the school curriculum. Because of the recent shooting of a student by another student on a school campus in Oakland, this seems particularly pertinent at this time.

Leticia Quezada
Los Angeles

Judge Armando O. Rodriguez
Fresno

Dr. Hazel Hawkins-Russell
Riverside

John Saito
Los Angeles

Diane Yu
Oakland

The consultants have indicated they will have the report of recommendations ready to mail to you by January 6 so that you will have time to review them before the meeting.

~~~~~  
Marty Mercado  
Coordinator  
(916) 324-7859

To allow for the subcommittees to finalize their recommendations, I suggest that you plan to come in the night before (Tuesday, January 14), and meet about 7:30 p.m. The Legislative subcommittee has already decided that they need to meet. Rooms are being reserved at the Holiday Inn, Oakland Airport. Please confirm with Dolores if you will be coming in the night before and need a room.

RERMV Commission  
December 23, 1985  
Page Two

I have had a follow-up meeting with Leonard Grimes, Special Assistant to the Director of General Services, regarding the testimony by Debbie Freeman, in particular her remarks about the Board of Control. They are concerned that the Commission has an accurate picture of the Victim Assistance Program. I have previously sent you a rebuttal to Freeman's comments by Lane Richmond, Executive Director of the Victim Assistance Program. I think they would like to appear before the Commission, but I have hesitated scheduling them because of time constraints. In any event, in our conversation, Mr. Grimes suggested that a positive recommendation the Commission may wish to consider is to recommend that Victim Assistance Programs be established in every county. We can discuss this further at the January meeting.

If you have any questions, please give me a call.

FELIZ NAVIDAD Y PROSPERO AÑO NUEVO - TO ALL OF YOU !

  
Marty Mercado  
Coordinator

MM:dah

Enclosures

ATTORNEY GENERAL'S COMMISSION ON RACIAL ETHNIC, RELIGIOUS  
AND MINORITY VIOLENCE  
REPORT OF LITIGATION SUBCOMMITTEE MEETING

Purpose:

The subcommittee is to develop strategies to assist the Attorney General in exercising his enforcement authority under applicable statutes with particular emphasis in the Ralph Act.

Background:

At the first meeting of the RERMV Commission, the suggestion was made that the Attorney General explore the possibility of bringing a civil action under the Ralph Act. The Act provides that all citizens have the right to be free from violence, or intimidation by threat of violence because of their race, color, religion, ancestry, national origin, political affiliation, sex, or position in a labor dispute. Civil Code Section 51.7.

Subdivision (b) of the Act provides that whoever denies the right or aids, incites, or conspires in the denial of the 51.7 right is liable for actual damages and an additional \$10,000 in punitive damages.

Subdivision (C) of the Act allows the Attorney General, the District Attorney, or the City Attorney to bring a civil action based on section 51.7 if there is reasonable cause to believe that persons are engaged in a pattern or practice of resistance to the full enjoyment of the rights embodied in the Act.

The first meeting of the subcommittee was confined to a discussion of possible strategies under the Ralph Act with subsequent meetings to be devoted to Attorney General general enforcement powers. The subcommittee first identified criteria the Attorney General could use in selecting cases for Ralph Act enforcement. Two considerations were paramount in identifying the criteria. They were the need to 1) utilize limited Attorney General resources in a manner designed to produce the most successful result; 2) avoid a perception on the part of local officials that the Attorney General is unilaterally interfering in essentially local matters.

Criteria:

The criteria identified by the subcommittee are the following:

- (1) Multi-jurisdictional Acts constituting a pattern and practice that crosses county lines;
- (2) Complexity of issues - Local officials may lack the resources to handle a factually or legally complicated matter;
- (3) High degree of controversy - Serious political or other constraints may impair the ability of local officials to handle a particular set of circumstances;

- (4) Egregiousness of the acts forming the basis of the suit. This criterion is further subdivided as follows:
  - a) great property or personal injury.
  - b) numerous victims;
  - c) series of acts of long duration;
  - d) serious threats of future violence.
- (5) Case is of general "public interest" - This may include acts of violence against school children or acts of violence occurring in areas experiencing violence, in the recent past, e.g., Watts.
- (6) Perpetrator of violence is a group as opposed to individuals.

As you can see, there is some degree of overlap in these criteria, but they are sufficiently distinguishable from one another to serve as convenient guidelines.

#### Recommendations:

The subcommittee felt that certain administrative and political steps should be taken by the Attorney General to ensure that the office is properly prepared to handle a new type of case. The recommendations are:

- (1) An administrative procedure, should be created within the Attorney General's office to provide for referral of matters coming to the office involving possible Ralph Act violations to the Civil Rights Division.
- (2) At the same time these matters should be referred to BOCCI for possible inclusion into its statistical network. There should also be developed a "feedback" mechanism from BOCCI to the Civil Rights Division whenever the BOCCI notes circumstances indicating a pattern and practice of violence. Sources for "pattern and practice" information could be 1) complaints coming into the Attorney General's office, 2) DFEH and FEPC files, 3) newspapers and TV news, 4) local law enforcement files; etc.;
- (3) Screening procedures for the selection of Ralph Act cases should be developed for use at the initial intake stage and at the Civil Rights Division level;
- (4) Intake personnel in Attorney General's office should be trained in the use of appropriate criteria for use in screening cases;
- (5) Referral policy should be utilized at level of Civil Rights Division of cases that are unsuitable for Attorney General's Ralph Act enforcement but have potential for Ralph Act or regular P. C. enforcement at the local level;
- (6) The Attorney General should set up training in Ralph Act enforcement for local District Attorneys, City Attorneys and law enforcement using P.O.S.T. and other mechanisms. In this regard the Attorney General should explore the possible use of the California Specialized Training Institute (CSTI) as an additional training vehicle for local law enforcement. Attached is a brochure detailing the CSTI program and curriculum.

- (7) The Attorney General should take steps to heighten the sensitivity of local law enforcement to the importance of attaching more priority to Ralph Act type cases. One method of beginning this process would be through distribution of a letter expressing the Attorney General's new enforcement policy in this regard attached to a press release announcing the policy.
- (8) The Attorney General should solicit the assistance of District Attorneys and City Attorneys early in the development of Ralph Act enforcement policy.
- (9) The Attorney General should explore the feasibility of directly prosecuting under selected penal code provisions cases of racial violence unsuited for the Ralph Act or other civil enforcement. At later meetings of the subcommittee criteria will be refined for use in these types of enforcement actions.
- (10) The Attorney General should explore possibility of Ralph Act enforcement against local law enforcement in appropriate cases. Such cases would, of necessity, require a showing of a "pattern and practice" within a police or sheriff agency. Moreover given the importance of honest, unbiased police enforcement to the safety and well-being of the community such an action would certainly be within the public interest.
- (11) The Attorney General should explore intervention into Ralph Act cases brought by District Attorneys, City Attorneys or private individuals. The subcommittee will work on criteria for these cases. The letters mentioned earlier should include notification of this aspect of the Attorney General's enforcement policy.

It should be noted that one recommendation coming out of the subcommittee meeting dealt with an issue within the purview of the Legislative subcommittee. With apologies for "turf invasion" the Litigation Subcommittee submits the following recommendation. The Attorney General should be given express statutory authority to train police, District Attorneys and City Attorneys in the area of racial, ethnic, religious and minority violence.

Signed: \_\_\_\_\_

Alice Lytle  
Chairperson  
Litigation Subcommittee



# ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS, AND MINORITY VIOLENCE



John Van de Kamp  
Attorney General

## COMMISSIONERS

Msgr. William J. Barry, Chair  
Los Angeles

Joaquin Avila  
San Francisco

Irma Castro  
San Diego

Richard Chavez  
City of Commerce

Thomas F. Coleman  
Glendale

Vincent Harvier  
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Judge Armando O. Rodriguez  
Fresno

Dr. Hazel Hawkins-Russell  
Riverside

John Saito  
Los Angeles

Diane Yu  
Oakland

~~~~~  
Marty Mercado
Coordinator
(916) 324-7859

December 31, 1985

TO: RERMV COMMISSION

Enclosed is the tentative agenda for the January 15, 1986 meeting.

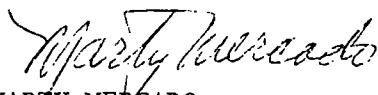
PLEASE NOTE:

Trish Donahue is sending to you directly the copy of the recommendations which must be approved at the January meeting.

Each of the recommendations must be approved individually. In order to move this quickly at the meeting it is imperative that you review your copy before the meeting and note those items which you wish to discuss, amend, etc. These items will be discussed at the meeting. If you cannot attend the meeting please send your comments, if any, to me for consideration.

Attached is an informational copy of the final draft of the report to the Legislature on Racial, Ethnic, and Religious Crimes required by SB 2080. Please treat this as an "in-house" document. The final draft has not yet been approved by the Attorney General. Upon his approval, the final report will be released by the AG's Office.

Very truly yours,


MARTY MERCADO
Coordinator

MM:dah

Enclosures

1515 K Street
Suite 371
Sacramento, CA
95814

ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS, AND MINORITY VIOLENCE



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Attorney General

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Diane Yu
Oakland

~~~~~  
Marty Mercado  
Coordinator  
(916) 324-7859

January 9, 1986

TO: RERMV COMMISSION MEMBERS

Enclosed is the final agenda for the January 15 meeting at the Holiday Inn at the Oakland airport. A room has been reserved at the hotel for the worksessions on Tuesday evening. Please check the hotel board for location.

I have scheduled a presentation by John Esterle, Director, Crime and the News Media, a non-profit program that was established to encourage more informative and more broadly focused reporting on crime and criminal justice issues. Since reporting of crimes of violence against minorities has been a subject of concern, I thought it would be of interest to you.

A representative of the Office of Human Rights, Department of Developmental Services, will be at the meeting on Tuesday evening, to provide further information on the recommendations they have submitted, regarding abuse of persons with developmental disabilities (enclosed).

Unfortunately, Msgr. Barry, Bishop Herzfeld, and Alice Lytle are not able to be at the Tuesday evening meeting. I have asked Diane Yu to chair the meeting.

Looking forward to seeing you -

Sincerely,

  
MARTY MERCADO  
Coordinator

MM:dah

Enclosure

P.S. The persons listed under public comments have requested to be placed on the Agenda.

**ATTORNEY GENERAL'S  
COMMISSION ON RACIAL, ETHNIC, RELIGIOUS & MINORITY VIOLENCE**

**MEETING AGENDA**

**JANUARY 15, 1986**

**HOLIDAY INN  
500 Hegenberger Rd  
OAKLAND AIRPORT**

|           |                                                                                                                                       |                  |
|-----------|---------------------------------------------------------------------------------------------------------------------------------------|------------------|
| 9:00 a.m. | Call to Order                                                                                                                         |                  |
|           | Approval of Minutes                                                                                                                   |                  |
|           | Scheduling of Next Meeting                                                                                                            |                  |
| 9:15      | Introduction of Dept. of Education Liaison<br>-Update on DOE recommendations                                                          | Dr. Ramiro Reyes |
| 9:45      | Issues of Native Americans                                                                                                            | V. Harvier       |
| 10:00     | BREAK                                                                                                                                 |                  |
| 10:15     | Legislative Items<br>AB 2311                                                                                                          | M. Medeiros      |
| 10:45     | SubCommittee Reports<br>Education/Community relations<br>Legislation<br>Litigation                                                    |                  |
| 12:00     | LUNCH BREAK                                                                                                                           |                  |
| 1:30 p.m. | Commission Consideration and Action on Proposed<br>Recommendations to Attorney General <u>re</u> Litigation<br>Legislation, Education |                  |
|           | Public Comments                                                                                                                       |                  |
| 5:00      | Adjourn                                                                                                                               |                  |

**Note:** The Commission will meet in a worksession on Tuesday, January 14, 1986, from 7:30 to 9:00 p.m., at the Holiday Inn, at the Oakland Airport, for consideration of proposed recommendations for the final report to the Attorney General.

JOHN K. VAN DE KAMP  
Attorney General

State of California  
DEPARTMENT OF JUSTICE



1515 K STREET, SUITE 511  
SACRAMENTO 95814  
(916) 445-9555

#### NOTICE OF MEETING

The Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence will meet on Wednesday, January 15, 1986 at the Holiday Inn at the Oakland Airport to approve issues and recommendations in the areas of education, litigation, and legislative proposals for the final report to the Attorney General.

For further information contact: Marty Mercado, Chief, Office of Community and Consumer Affairs, Office of the Attorney General, 1515 K Street, Sacramento, California, (916) 324-7859.

# # #

1/3/86

MINUTES  
ATTORNEY GENERAL'S  
COMMISSION ON RACIAL, ETHNIC, RELIGIOUS, AND MINORITY VIOLENCE  
Oakland, California  
January 15, 1986

The meeting of the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence was called to order by Chairman Monsignor William Barry at approximately 9:05 a.m., Holiday Inn - Oakland, California.

Commissioner's Present

Msgr. William J. Barry, Chairman  
Thomas F. Coleman  
Vincent Harvier  
Antonia Hernandez  
David Kasso  
Hon. Armando O. Rodriguez  
Dr. Hazel Hawkins-Russell  
John J. Saito  
Diane C. Yu

Commissioner's Absent:

Irma Castro  
Richard Chavez  
Janet Levy  
Bishop Will Herzfeld  
Hon. Alice Lytle  
John Mack

Department of Justice  
Personnel Present:

Marty Mercado, Chief Community  
and Consumer Affairs  
Manny Medeiros, Deputy Attorney General  
Sacramento  
Henry Torres, Deputy Attorney General  
Los Angeles  
Dolores Hernandez, Secretary

## **APPROVAL OF MINUTES**

The minutes of the October 21, 1985 meeting were approved.

## **SCHEDULING OF NEXT MEETING**

Msgr. Barry asked Marty Mercado to explain the rationale for not setting a meeting date at this time. Ms. Mercado explained that the date of the next meeting was contingent on the Attorney General's schedule since it is anticipated that the Commission would present its final report to him at that time. She said the meeting would be held in Los Angeles and would be followed by a press conference. Since it is expected that the final report will be received from the printer around the middle of April, that a date convenient for the Attorney General had been requested some time after April 15, and as soon as a date has been set Commissioners would be notified. Msgr. Barry noted that a press conference would bring recognition to the work of the Commission over the last two years, what it had done and what it hopes will be accomplished in the future as a result of the recommendations.

## **CRIME AND THE NEWS MEDIA - JOHN ESTERLE**

John Esterle, Director of the Crime and the News Media Project, explained that this is a special project funded by the San Francisco Foundation, to encourage more informative and more broadly focused reporting on crime and criminal justice issues. (See Project Description, Attachment A)

He said they have been monitoring selective bay area news organizations to see what their coverage of crime and justice issues has been to determine if crimes against minorities, crimes involving race, religion, are underreported. He said they are coming up with a broad range of findings. Specifically, in terms of crimes relating to race and minority, he said their preliminary findings at this point, based on one of the daily newspapers and one of the major television stations in the area, are that 99% of the time the victim's race is not identified in the newspaper, and 78% of the time on television. When it is identified, 15% of the time the victims are white, 3% Black, and 4% are Latino.

Esterle said he was not sure what the Commission's findings are as far as the amount of crime that is taking place that is racially, ethnically, and religiously motivated, but the picture that is being presented generally in the news media is one that underrepresents the problem considerably or doesn't go into the degree of the problem. Compounding the problem is that you have media presentations such as "The Year of the Dragon" and a whole list of others which present a very serious and, typically, very negative portrayal of minorities. He said on the one hand you have a portrayal of very negative images in the pop culture, and at the same time you have a real under-representation in reporting on the problems that are possibly caused by these negative portrayals.

Esterle said his recommendation to the Commission would be that in terms of education, public information be a real strong component of those plans, such as creation of a centralized public information office where news and information is provided on a regular and consistent basis is received and disseminated to different statewide news organizations, so that there is consistent coverage of the problem. He suggested another recommendation that consideration be given to setting up some sort of monitoring program so that in conjunction with the crimes that are being reported, there is information of what is being presented to the public through the news media to see if the public is at all aware of the problem. He recommended that the Commission consider some sort of media component, both in terms of interacting with the news media and also in terms of some sort of public information program that can impact both on movies and films, and productions which could be shown throughout the school system.

In response to Commissioner Rodriguez's question as to whether the underreporting is deliberate, Mr. Esterle said that the newspapers and television made the conscious decision not to report race in identifying suspects, and that is carried over into race of victims because there was a time when racial tags were used in a negative way as far as news reporting, so to counteract that, the trend is not to report on race at all in terms of victimizer or victim. He said this becomes problematic because then the whole issue of race becomes one that doesn't enter into people's consideration in crimes. He said there needs to be some sort of reporting or analysis that looks at the big picture or can look at a series of crimes. He said one newspaper did a front page story a few months back on Asian violence and the Commission but that is the only thing he has seen in the past few months dealing with this problem. He said they are in the midst of processing their data and would be happy to send a copy of their findings as soon as they are available.

#### **ISSUES OF NATIVE AMERICANS - Vincent Harvier**

Commissioner Harvier gave a presentation on some of the problems faced by Indian tribes. He said he was disappointed that representatives from the Native American community who had been scheduled to present some of the issues for discussion had cancelled their appearance before the Commission.

Mr. Harvier gave a brief summary of his background. Prior to coming aboard as a Commission member, he served for six years as the tribal president of the Quechon Indian tribe in Southern California. In the past 10 years they have become the largest Indian reservation in the State of California, with a population of approximately 3,000 Indian people.

Mr. Harvier said his first contact with the California State government system began in 1978 when he was instrumental in developing a plan for an all Indian law enforcement agency - it was the only one of its kind in California.

Mr. Harvier said, that in his opinion, the problems that are now being confronted by Indian people all seem to stem from Public Law 280 which was enacted in 1951. PL 280 was brought into being without the consent of

Indian tribes in California. PL 280 transferred jurisdiction over both criminal and civil matters on reservations and rancherias to the State of California. California was one of five states to which PL 280 originally applied.

Mr. Harvier said when he was appointed to the Commission he asked the Attorney General if it would be possible to go out to the public and meet not only with the Indian people, but with the rural communities and some of the cities and towns where Indian people are living and explain in detail exactly what PL 280 does. He said he was told that this is an issue that could better be dealt with by the legal people rather than the Commission. He said he is sorry that he did not pursue that, because now there is the issue of bingo operations on the reservations as well as the issue of lack of law enforcement protection on Indian reservations.

Mr. Harvier said there is a definite difference between Indian people and that of other ethnic groups because of the government to government relationship that is enjoined by Indian tribes as individual nations brought about by treaties, presidential orders and other agreements that were made in the past. He said in order to deal with Indian issues, we have to look at both the federal responsibilities to the Indian people and the State as they assume them under PL 280.

He said the tribes never consented prior to its passage to go under PL 280. This did not come about until 1968 when Resolution 101 was established which required, under the Indian Civil Rights Act, that the tribes in the future be presented with the opportunity to give their consent to come under the State jurisdiction, whatever that state might be. Tribes in California have already been subjected to this, and they have no recourse right now except to intercede which costs the tribes hundreds of dollars which they don't have available to them.

Mr. Harvier said it is difficult to try to get into all of the ramifications of PL 280 and the issue of jurisdiction because it is a long drawn out thing, and is something which they feel they have already dealt with and are continuing to deal with, and in which law suits are pending in court.

Commissioner Harvier said some of the other issues that they deal with are basically the same as the Commission heard complaints of from other ethnic groups. He said there was a reason for putting together the law enforcement program in 1979. They found that in their area the crimes being committed on Indian reservations were being committed by non-Indian people. He said there was an influx of people from Los Angeles, Escondido, El Cajon and San Diego who were coming through the reservation, heading into the northern sections where the weather is mild in the winter, and homes in a new housing development on the reservation were being vandalized.

When they complained they were told that the Bureau of Indian Affairs no longer had jurisdiction in the matter, and they were no longer recognized as a government who had concurrent jurisdiction with the State of California. Therefore, in order to provide law enforcement service to the people on the reservation, he agreed to recruit deputies to be trained in police academies. He said it became the only force of its kind, and it still is to his knowledge.



By the reasoning behind PL 280, if the State of California had lived up to its jurisdiction, it was up to the State of California to provide the services to the Indian people on these reservations. Mr. Harvier said they went to the County Board of Supervisors and laid out their plan, and since they were counted as part of the population in order to secure funds which come down from the State to the counties, the county should provide the service, and then Proposition #13 went into effect.

Mr. Harvier said that for 680 square miles in their area there were three deputies out of Imperial County. There are 3,000 Indian people living there, and 1,500 non-Indian people. He said they have farms and other businesses going. He said they had a little town of approximately 800 people surrounded by reservations, and they had to cut back on their law enforcement services because of Proposition #13. The tribe at that time used its own resources to develop the law enforcement program.

Mr. Harvier said he has sat in on meetings of other tribal leaders across the state and has heard the same complaint - lack of law enforcement services on the reservations. He said there seems to be a great misunderstanding about what PL 280 is. He reiterated his suggestion that a common interpretation of this law be given to all parties concerned so that there would not continue to have confrontations from one end of the state to another, and to eliminate complaints that there are no services being provided by the Sheriff's office to the Indian people. Besides the problem that the areas that have to be serviced are so isolated, is the problem of ignorance of what the jurisdiction is to provide these services. He said some sheriffs still believe that the federal government still has the authority and obligation to provide these services to the tribes, so they don't respond to calls.

Commissioner Harvier said that his recommendation would be that the Commission recommend to the Attorney General the PL 280 is an Indian issue that must be clarified.

Commissioner Coleman expressed some frustration that the Commission had not heard officially about these problems earlier on, but notwithstanding said he would like to see the Commission's report address in some aspect the concerns raised by Commissioner Harvier. He suggested three possible recommendations:

- 1) that the Commission call on the Attorney General to take steps which may be necessary to secure full law enforcement protection for Native Americans on reservations in California. He noted that is kind of a general statement, but at least it is a statement in that direction.

- 2) to ask the Attorney General to specifically inform local law enforcement agencies regarding their responsibilities in the area of law enforcement on Indian reservations; to give some specific directives that would outline what their obligations are.

3) that the Commission ask the Attorney General to establish a task force of appropriate agencies and individuals to examine PL 280 and to make recommendations regarding clarification of its enforcement or its revision, whatever that task force thinks would be appropriate, and bring all of these parties together to study this problem in some collective manner over the course of the year or 18 months.

Commissioner Harvier said there have been meetings with the Attorney General to develop a closer working relationship and for the development of a plan to bring about better services, but said it needs the Commission's support to push it along.

After further discussion Commissioner Coleman made a motion that the suggested recommendations be added to the list of those approved earlier as recommendations numbers 54, 55, 56; and to add an additional recommendation, #57, as suggested by Ms. Donahue regarding additional POST law enforcement assistance training for the establishment of Indian law enforcement on reservations. The motion carried.

#### **COMMENTS BY DR. REUBEN BURTON, DEPARTMENT OF EDUCATION**

Dr. Reuben Burton, Chief of the Office of Intergroup Relations, Department of Education, noted that Dr. Ramiro Reyes had been appointed the official liaison person from the Department of Education, and had asked him to represent him at the meeting.

Dr. Burton gave an update on what the Department is doing and planning to do as it relates to some of the proposed recommendations. He said one of the concerns has to do with training of teachers and administrators to understanding of our cultural diversity and the problems of minority students. He said in 1975, the Bureau of Intergroup Relations was concerned about the number of requests they were getting to intervene in crisis situations in schools, and developed some "guidelines" to assist school districts in developing a plan to deal with situations when they occur and also developed guidelines for planning prevention programs, a Manual on Prevention and Preparedness. He said one of the things they found is that often these situations are exacerbated by staff who overreact or have no plan on how to deal with a crisis situation. Like so many documents in any bureaucracy, the manual sat on the shelf for many years and nothing was done because of budget cut backs, etc. However, recently, the Superintendent has expressed a concern about the fact that school districts don't have a plan to deal with these crisis situations, such as with fire, earthquakes, etc. and the result is that he has been given the mandate to update that manual. He said they will be circulating copies to various persons around the state to get their reaction to it, and he will send copies to the Commissioners as well before it is put in final form.

Dr. Burton said one of the directions that his office will be pushing for relating to the "Prevention and Preparedness Plan" is to try to get some stronger teeth in it so that districts are mandated to have such a plan, but that it will probably take some time to do.

In terms of training administrators and teachers, Dr. Burton said there are several things going on. He said there is a law which has been on the books for quite a while that mandates schools that have 25% or more minorities to provide training for teachers and administrators in the history, culture and current problems of minorities. He said when that first came out there was quite a bit done; there were plans submitted; there was a lot of training going on, and then it sort of died. He said his office has resurrected that and they are sending letters to districts indicating that this is still the law, and they will be working with districts to start that training process again.

Dr. Burton said they have also brought on board a young woman in his office to begin to work with school districts on designing training to sensitize teachers and administrators to the kinds of problems that are faced by minority students.

Dr. Burton also reported on the partnership program between the Attorney General's Office and the Superintendent of Public Instruction, through the Office of School Climate in the Department. What has come out of that are cadres of people who are located around the state who will be trained in the area of reducing violence on school campuses. The training is going on now and will be available to school districts who have this need.

This will cut down on the response time. There will be some local trained person as a part of this partnership cadre that will be available to assist them. Dr. Burton noted those things are ongoing and his office continues to work on them and with the Office of School Climate unit and the partnership cadre.

Dr. Burton noted one final concern that relates to all of this; i.e., the number of allegations of racial discrimination that they get each day and each week. It is escalating at an unbelievable rate. He said his concern is that people don't understand the extent of it. He said three to four allegations of racial discrimination come through their office for investigation every week. He said he noted in the minutes that the Commission had heard from one woman from the Squaw Valley area who talked about what was happening to her youngsters on a bus. This is not uncommon. He said she was asked to contact his office, and she has, and hopefully they will be investigating that situation. He said the allegations they get are from teachers as well as parents. To his knowledge they have not yet erupted in violence, unless you consider mental violence as well as physical violence. Mental violence is certainly there, youngsters are afraid to go to school, and in fact are being pulled out of school by their parents out of fear and nothing is being done at the school district level.

Dr. Burton said he has read most of the Commission's proposed recommendations and the Department is beginning to move on most of them.

Commissioner Saito asked Dr. Burton how they would enforce compliance with Article 3.3 regarding training for teachers. Dr. Burton responded that there really is no enforcement provision. The laws says that the training must be provided. It does not say that the teacher must take the training. He said however, that they found, that there was considerable interest by people in taking this training. He noted, that there was also misuse of it

where administration simply listed the courses available locally and posted the information on a bulletin board and then said they had provided the information. Teachers and administrators have the choice to take it or not. There is no real enforcement behind it. Dr. Burton said they still think it is valuable to have it on the books and they are going to work to get the same kind of interest in it that existed when it first came out.

Commissioner Coleman asked if there has been any reaction or movement on the recommendations dealing with myths and stereotypes about lesbians and gay men or the inclusion of sexual orientation. Dr. Burton indicated they have been discussed. He has initiated several discussions up the line but has heard nothing in terms of what is going to be done. He indicated he would report back that this concern has been raised again. He said this is a very sensitive issue that he is not sure that the department is ready to tackle, that at least they will need some help on how to tackle it. Commissioner Coleman said to let them know that help is available.

Commissioner Kassooy asked Dr. Burton if he could give an update on AB 1273, which allocated \$25,000 for the development of a model curriculum which supposedly would be incorporated or mandated to be incorporated in all the high schools in the state on the subject of sensitizing youngsters to the issues of bigotry and racism. Dr. Burton responded that he had only recently received a copy of the bill, so could not give an update on it. He noted that this probably would not be assigned to his office, but rather to the unit that has responsibility for developing curricula.

Commissioner Kassooy said the Commission would probably include this as one of their recommendations. He reminded Dr. Burton that when he had testified at an earlier commission hearing where the Commission had heard testimony from the Los Angeles Superintendent of Schools on the Hands-Across-Campus Program that Dr. Burton had indicated he was not aware of that program, and said that the Commission feels strongly that there could be some more movement in the Superintendent's Office in this area.

Commissioner Hawkins-Russell said that with respect to Article 3.3, that she would like to suggest to the commission that one of their recommendations should be amending that section to include mandated training for faculty and staff on cultural relations, since that legislation is already in the books.

Dr. Burton said there has been a lot of change and turnover in schools so that the training has to be ongoing so that new teachers and administrators are aware of the problems. He said this is even more critical now with the increased numbers of minority youngsters who are coming into our schools, some of them from racial, and cultural groups that we know very little about - and teachers know very little about.

Dr. Hawkins-Russell said that this is something many students also know nothing about and have not been exposed to this kind of training. Dr. Burton pointed out that it is also important because of court ordered desegregation. He said there are many large school districts who are involved in desegregation which means that in many instances you are going to have teachers teaching minority youngsters for the very first time, and they know very little about them so the training becomes even more critical.

Commissioner Yu asked Dr. Burton if in light of the fact that the Commission would expire in a few months, he felt his department had appropriate and adequate access to the Department of Justice to work together to try to implement these kinds of programs. He responded affirmatively stating that the School Climate Unit under the partnership with the Attorney General is taking the lead, and that his office works closely with that Unit.

Commissioner Yu asked Dr. Burton what he thought would be the most helpful thing the Commission could do in trying to further the goals that had been stated. Dr. Burton responded that what is critical is that the recommendations of the Commission come out, particularly as they apply to Education.

Secondly, he said, is to not let those recommendations die in terms of what is being done with them. He said that sometimes, because the recommendations can be so overwhelming, the best way out is to do nothing, rather than to try to tackle the problem.

Commissioner Yu said that relates to the first question, as to whether there are mechanisms, or individuals in place who will push them forth once the Commission is disbanded. Dr. Burton responded that there are.

Msgr. Barry said presumably it would also be helpful even though the Commission would be disbanding, to have its recommendations there in support of what Dr. Burton is attempting to do.

Dr. Burton said the Commission's recommendations have been very helpful to him.

Commissioner Yu asked if there are any proposed recommendations from the Commission that Dr. Burton personally, or the department to the extent that he could speak for it, that they could not support. Dr. Burton responded, no, just the one that Commissioner Coleman had mentioned.

#### **LEGISLATIVE ITEMS**

Deputy Attorney General Manuel Medeiros gave a report on legislative items. In response to a request by Commissioner Coleman to staff at the Legislative subcommittee meeting in Los Angeles on December 10, 1985, to inquire whether or not the most recent amendment of the Ralph Civil Rights Act, Civil Code Section 51.7, might be unconstitutional as overbroad, he said Deputy Attorney General Louis Verdugo of the Los Angeles office, did some research into the area, but prefaced this comment by saying this is not an opinion of the Attorney General's Office. He said he looked into it and could cite what the issues might be and what the likely responses might be but this is not locked into stone in any sense at all. The particular amendment to the Ralph Civil Rights Act under discussion, added a line to Civil Code Section 51.7 subdivision (a). The Ralph Civil Rights Act previously prohibited violence based upon certain enumerated categories; race, color, religion, ancestry, natural origin, political affiliation, sex, sexual orientation, age, disability or position in a labor dispute. It was amended in 1985, or effective 1985, to augment the identification in this subdivision of

particular bases of discrimination. Under this amendment, the listing of forms of discrimination is made illustrative rather than restrictive. Whether a statute is unconstitutional for overbreadth or vagueness really involves a number of considerations. With respect to overbreadth, the question is whether or not it would prohibit, or substantially prohibit, constitutionally protected conduct. If it would substantially prohibit constitutionally protected conduct as well as constitutionally unprotected conduct, then it might be overbroad. In this case the statute prohibits violence or intimidation by threat of violence based on one of the specified classifications, or any arbitrary classification at all. That is not protected conduct; violations or intimidation by threats of violence is not protected conduct. So there probably wouldn't be a problem of overbreadth or overcoverage, in that it would not be precluding or prohibiting constitutionally protected conduct.

Commissioner Kassoy asked if that means that if a protester by his actions; e.g., by his shouting of curses, by words, gestures, etc. meets persons, government officials or citizens, in a building that they are protesting - for example, if the South African Embassy here feels intimidated, threatened violently - that they could use the Ralph Act to enjoin that protest? He said he thought Mr. Medeiros had gone too quickly over the issue by saying "well, it only prevents violence, therefore it can't step on constitutionally protected rights."

Mr. Medeiros said that he thought the question would be, generally speaking, what the Ralph Civil Rights Act could be used to prohibit. And looking at the language and the context of Mr. Kassoy's question he was not sure it could be used to prohibit general anxiety that might be precipitated as a result of someone's conduct. He said he thought it may be more directed to direct threats of violence or intimidation of a single person or particular individuals by threats of violence. He is not sure it is available to a class of people, for example. He said this is just his speculation; he is not sure that it is available to a class of people to use against some group of individuals based upon generalized threats of violence against that group of people. He said he is just not sure it would have been available to do that even under the previously existing statute. So in answer to Mr. Kassoy's question, he said you don't reach the question of constitutional overbreadth because it is not really directed to that kind of problem. That is his guess.

The second question of whether or not it is vague involves basically two inquiries: one is whether the law gives a person of ordinary intelligence a reasonable opportunity to know what is prohibited so that he may act accordingly; and secondly, does the law provide explicit standards for those that are to apply the law? Mr. Medeiros said perhaps the best way of answering this is that it better be constitutional because the Unruh Civil Rights Act is already couched in those kinds of terms. The Supreme Court's case In Re Cox held that the specifically enumerated classifications in the Unruh Civil Rights Act are illustrative rather than exclusive, and if this amendment is unconstitutional, that would be too. He said he thought that the sense that we have is that the phrases in the statute, "because of" and "basis of" discrimination, are probably sufficient standards to enable a person of ordinary intelligence to understand what he or she should or should not do, and that it probably would be sufficiently clear to withstand constitutional scrutiny.

Commissioner Coleman said he hoped he was right, but would just briefly express his concern: that it seems to him this Act is more penal in nature than the Unruh Civil Rights Act, in that there is this \$10,000 fine and the word "fine" is used. So that there is the concept that courts will more strictly scrutinize statutes for specificity if a punishment is being imposed, and because the Unruh Civil Rights Act is more civil in nature. He said he is aware that there is a \$250 penalty, but again the more severe a punishment is, the more scrutiny is imposed on a statute for strictness and ambiguity. So, notwithstanding what Mr. Medeiros said, he still has this concern. Probably the courts will do what they can to interpret it in a fashion that is consistent with the legislative intent and if they graft new classes onto it, maybe they will make those prospective rather than retroactive, he did not know, and those are mechanisms that they can use to avoid the notice problems and so on. So he said he still has a concern about making it illustrative.

## **SUBCOMMITTEE REPORTS**

### Education Subcommittee

Marty Mercado presented the report for the Education Subcommittee. She said the subcommittee did not meet; since Chairman Bishop Herzfeld was not able to attend the meeting. However she said, the report of the subcommittee presented at the last meeting had been finalized incorporating the recommendations which the committee had been considering and that had been circulated to the members. There were no changes to the recommendations and the subcommittee's report will become part of the final commission's report.

Commissioner Rodriguez asked if those recommendations had been adopted by the entire panel. Ms. Mercado responded that they had not, however, they are included in the final recommendations the Commission would be reviewing and approving that afternoon.

Ms. Mercado said she had some good news; that the recommendation by the Commission that the Department of Justice Civil Rights Handbook be updated had been completed by the Civil Rights Enforcement Unit. She said she had received a copy of the final draft and expected the revised Handbook to come out probably about the time of the Commission's final report, if not sooner. From that, a public information brochure has also been developed. She said the credit for that effort goes to Louis Verdugo and Henry Torres, from our the Civil Rights Enforcement Unit, in Los Angeles. They made a really tremendous effort to try to get that ready so that it will be available in final form about the time as the Commission's report, and she said she did appreciate that. She said copies of the draft report would be sent to the Commission, but cautioned that these are still in-house documents.

Msgr. Barry noted that development of these two items were recommendations from the Education/Community Relations Subcommittee, so the fact that progress is being made already in the production of these is very satisfying and very pleasing.

#### Legislative Subcommittee Report

Commissioner Yu said the Legislation Subcommittee has been pretty busy. They met in December in Los Angeles to try to put together their priorities in terms of legislation - about 90% of the work of this commission is in the legislative area. In order to meet an internal legislative proposal deadline by the Department of Justice, a list of eleven high priority proposals for legislation had been submitted to the Attorney General for his consideration for inclusion as part of the Department's legislative program for 1986. Otherwise, any proposal would have to wait until the full Commission's report comes out later this spring, which would mean that any action be postponed until the December 1987 session.

These proposals originated essentially from testimony from the two hearings - one in Los Angeles in May and one in San Francisco in October - plus all the testimony that has been presented at the regular Commission meetings throughout the last two years from individual attorneys, law enforcement people, community groups, civil rights activists and various organizations. The eleven recommendations were: enumerate amending the Ralph Civil Rights Act to: award legal fees for those bringing successful actions under it; to bar counter claims in Ralph Act actions until the action has been resolved; provide for calendar preference for Ralph Act actions; clarify in the Ralph Act and the Unruh Act that the Fair Employment and Housing Commission has jurisdiction to enforce the Ralph Civil Rights Act; provide for treble the level of damages awarded in RERMV cases; development of a Judicial Council form for accelerated injunctive relief procedures for RERMV victims similar to that which exists in Domestic Violence procedures; enactment of a criminal statute similar to the Massachusetts criminal statute; addition of sentence enhancements to misdemeanor RERMV cases, including a wobbler provision and presumptive time in jail; to prohibit release of hate crime victims names and addresses to the media; creation of human relations commissions in every county, with appropriate funding; extension of the SB 2080 legislation for reporting of RERMV crimes.

Marty Mercado noted that these recommendations were included in the package that the Commission would be acting on later in the day.

#### Litigation Subcommittee

In Commissioner Lytle's absence who was unable to be present, Marty Mercado reported that the Litigation subcommittee had not met the night before, but reminded the Commissioners that at an earlier meeting the Litigation committee had presented their report and recommendations and these had been recommendations approved by the Commission. She noted the recommendations are also included in the recommendations that would be considered later that afternoon.



Commissioner Kassoy said he wanted to make one observation about the recommendations of the Legislative Subcommittee - an observation that he thought the audience should know: that there are no recommendations by the committee which involve possible infringement of first amendment rights in this whole discussion of hate crimes and how to deal with hate crimes. In comparison with laws in Canada and Europe which do go into those first amendment areas, literally banning certain types of advocacy. None of that is contained in this report. The spirit of this report is to strengthen measures that could be taken legislatively to combat violence and intimidation that is motivated by bigotry through methods which are not infringements or potential infringements of the first amendment rights.

#### Public Comments

Chairman Barry recognized Mr. David Castro, who had asked to speak before the Commission. Mr. Castro said he was speaking as a private citizen and was pleased to note that the Commission had been created two years ago, but was also concerned to hear that after the next meeting the Commission might no longer exist. He asked that members of the Commission implore the Attorney General not to discontinue this Commission, or to consider reappointing a smaller task force of members of the commission. He said in order to reach individual communities you need the input of various organizations. He said there is a need for a body, such as the commission, where members of the community can go to and be heard. Commissioner Kassoy pointed out that one of the recommendations the Commission would be considering later on the agenda is a recommendation for continuation of the Commission, and, perhaps more importantly, the mandatory establishment of human relations commissions in every county.

Chairman Barry thanked Mr. Castro for his comments.

#### **CONSIDERATION AND ACTION ON PROPOSED RECOMMENDATIONS**

Msgr. Barry suggested that the most efficient way to consider the recommendations would be to take those which had been identified as consent items at the meeting Sunday night and vote on them as a block; and then take up individually those which needed further clarification in addition to the four that Commissioner Coleman had made earlier in reference to Commissioner Harvier's presentation.

Msgr. Barry asked Marty Mercado to call off the numbers of those needing further clarification so these could be held out for further discussion. The recommendations requiring further discussion were read as follows: Recommendation #3, #8, #9, #10, #11, #15, #16, #17, #18, #19, #29, #32, #33, #35, #36, #37, #47, #51, #53. **(The numbers correspond to those on the list of recommendations attached.)**

Ms. Mercado indicated that the discussion with respect to recommendation #18 was that recommendations #18, 11, 14 and 19 should be combined, so if there was no further discussion required, they could be included in the consent items. It was agreed that these recommendations should be included in the consent item.

Commissioner Kassoy pointed out that there had been concensus on some of the recommendations, with wording changes that probably were not reflected in the copies that had been handed out during the meeting. Recommendations with the wording changes are as follows:

Recommendation #8 - POST should certify and provide reimbursement for advanced officer courses providing information on preventing **hate crimes**.

Recommendation #14 - re-write to add training for translators to work with hate crime victims, establish community training seminars on the judicial system, and for provision of interpreter services.

Recommendation #17 - delete "legislation should be enacted", so that the recommendation reads: that the Department of Justice should establish a "Hate Crimes Unit" within the Bureau of Criminal Statistics. It was also recommended that since **recommendation #35** is similar, that these two recommendations be merged, and the wording "that the Attorney General create" as used in #35 be used.

Recommendation #20 - reworded to state that: Legislation should be introduced to require law enforcement agencies to report hate crimes based on the model program developed under SB 2080.

Recommendation #25: Change the word in the next to the last line from "based on the S. F. Police Department..." to "as exemplified by", or "similar to."

Recommendation #26: Same recommendation as #25.

Recommendation #28: In the third line, insert the words "elderly and disabled persons" after the words "protection programs" and change the word "based" to "exemplified by", or "similar to."

Recommendation #29: This was resolved by adding the following to the end of the sentence: "as exemplified by the Hands-Across-the-Campus program which has been adopted by the Los Angeles Unified School District.

Recommendation 30: In the second sentence, change the wording from "local human rights agencies" to "local human rights organizations."

Recommendation #42: Insert the word "state" after "appropriate level of".

Recommendation #43: Re-write to read: The Department of Justice Civil Rights Enforcement Unit should annually update the Civil Rights Handbook, and distribute it to community organizations ...

Recommendation #49: Merged with recommendation #29 which is up for discussion.

Recommendation #50: Merge with #29.

The Commission moved to approve the recommendations on consent as follows: #1, 2, 4, 5, 6, 7, 12, 13, 14, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 34, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 52.

Discussion on the recommendations held out followed and the following action was taken:

Recommendation #3: A "hate crime" law should be enacted as a special statute and contain a broad range of penalties.

Commissioner Kassoy noted that the consensus of the Legislative subcommittee, after considering the testimony of various sources, was that enactment of a state civil rights act, as recommended in Recommendation #2, which creates the same type of criminal penalties as under federal civil rights law, combined with further amendments to be discussed later, was preferable, and Recommendation #3. The commission approved deletion of Recommendation #3.

Recommendation #8: POST should certify and provide reimbursement for advanced officer courses providing information on prevention community disruption.

Trish Donahue explained there was some question about what that training was about. The recommendation is aimed at the fact that patrol officers often are the precursors of hate crime long before anybody else in incidents that are not criminal - verbal, or pertaining to other incidents. If police officers are trained to identify the potential for hate crimes early on and to take effective action, they are in effect preventing hate crimes. She said there was some confusion that the recommendation might be aimed at a crime prevention program and that is not the intent; it is aimed at preparing regular patrol officers to be able to identify potential hate crimes.

Ms. Donahue pointed out that there are three categories of training certified by POST; the academy, the field training officer program, and the advanced officer program. Fred Persily pointed out that training at the academy level doesn't deal with officers who have been on the force for several years, but deals only with new officers coming in. Ms. Donahue said there is a precedent in legislation passed last year on domestic violence which mandates that each police agency provide 24 hours of training every three years to advanced officers. Commissioner Rodriguez moved to adopt the recommendation and that it be reworded by replacing the words "community disruption" to "hate crimes". The motion carried.

Recommendation #9: The California Department of Justice Civil Rights Division should work with minority community representatives and district attorneys to develop educational programs and materials focusing on, but not limited to, Section 11410 (terrorizing), Section 11411 (burning or desecration of religious symbols, placement or display of physical impressions), and Section 11412 (threats obstructing exercise of religion) of the California Penal Code.

Ms. Donahue pointed out that the words "Civil Rights Division" are inappropriate. It was recommended that these words be deleted. Commissioner Russell moved adoption of Recommendation #9, amended to delete the words "Civil Rights Division" be deleted. The motion carried.

Recommendation #10: The Department of Justice should distribute model procedures to assess the potential for racial, religious, ethnic and minority conflict to law enforcement agencies.

Ms. Donahue noted there was some question as to whether those model procedures exist. She said that the Chicago, Boston, and Baltimore County police departments have such procedures. Patrol officers record incidents that indicate there might be a potential for hate crimes and that information is channelled up the line to administrators who then make decisions about the personnel and community relations activities in the community as a prevention step. They call them conflict assessment units, and the procedures do exist. According to human rights organizations in those cities, they have been effective in stopping hate crimes. She said the San Jose Police Department has an assessment system for racial violence, which, to her knowledge, is the only one in California. Commissioner Kassoy suggested re-wording the recommendation so this is clarified.

Commissioner Rodriguez moved adoption of Recommendation #10, with this suggestion. The motion carried.

Recommendation #11: OCJP funds should be made available to law enforcement agencies and community organizations to develop procedures for preventing racial, ethnic, religious and minority violence.

Ms. Donahue explained that the language doesn't stand clear on what the recommendation is. Law enforcement agencies often fail to use the resources of community groups that can resolve conflicts because they don't know they are there, or because they have no regular line of communication. This would provide funding for some model programs to set up protocol whereby when there is an incident of racial violence, or a potential for racial violence, there would be a standard procedure for communicating the information between the community group and the law enforcement agency; and for using mediation and other kinds of prevention methods in communities. That happens now to some extent, but no where is it standardized.

Ms. Mercado noted that there was discussion about merging recommendation #11 with recommendations #14, #18, and #19. Ms. Donahue noted that all of these recommendations speak to the issue of providing services for victims and preventing escalation of violence. Mercado noted that it had also been recommended that training for interpreter services be provided to work with hate crime victims, and that of community training seminars on the judicial system be established. Commissioner Rodriguez noted that some of the recommendations refer to the Office of Criminal Justice Planning and others to the Department of Justice.

Kirk Wallace explained that the reason for naming the Department of Justice in recommendation #18 is that they will be the gathering body for information. It was recommended that there be consistency in the wording, and that those recommendations relating to OCJP funding be grouped together if possible.

Commissioner Russell made a motion, seconded by Commissioner Yu, that recommendations #11, #14 and #19 be combined and re-worded to include the changes as recommended.

Recommendation #18: The California Department of Justice should provide financial resources and technical assistance to counties within California to establish and maintain centers that will maintain the responsibility for gathering information and developing appropriate responses to incidents of racial, ethnic, religious and minority violence in cooperation with local law enforcement.

Commissioner Rodriguez made a motion, seconded by Diane Yu, that Recommendation #18 be approved as submitted. The motion carried.

Recommendation #15: The Department of Justice should sponsor a conference to examine existing local law enforcement policies on immigration and their ramifications on hate crimes.

Ms. Donahue explained that this recommendation comes out of testimony before the Commission and the experience of some of the individual commissioners. People who are in this country illegally are not reporting hate crimes against them because they are afraid if they do they will be turned over to the INS. The specific methodology of the recommendation is with the idea that we are approaching a sensitive area and, rather than having the Attorney General telling the law enforcement agencies not to enforce, or specific things they cannot do, the intent would be to bring them together for a conference to try to come up with a statewide policy.

Ms. Mercado pointed out that Commissioner Castro had expressed concern that, to the extent that this group of people becomes scapegoats and victims of hate crimes, it is appropriate that the Commission address the issue, and as such, it should be addressed in the Commission's report.

Commissioner Kassoy expressed concern that the issue not be trivialized by calling a conference; but rather the recommendation should suggest formulating and implementing a statewide policy of law enforcement participation with Immigration. Ms. Mercado noted that the Attorney General has issued an opinion with respect to local law enforcement's duty to assist or notify the INS. Commissioner Kassoy acknowledged that the Attorney General had issued an opinion saying that they don't have a duty to assist, but what he is saying is that formulating a policy in the Department of Justice on this subject may go beyond merely calling a conference, and that it might be useful to broaden this recommendation. There may be other things that he can do in addition to calling a conference.

Ms. Donahue said there is a parallel here with the domestic violence issue. Advocates for victims of domestic violence wanted every agency in the state to have a similar policy. The Department of Justice issued a model policy and did several other things; e.g., brought together groups of district attorneys and law enforcement agencies. And they are saying "no mandate", because you can't mandate what a local police chief does. But there has been lots of information and discussion, and that ended up in legislation with a mandate.

Commissioner Yu suggested that Commissioner Kassoy's suggestion might be incorporated by expanding the nature of the recommendation from a conference by indicating that (1) this proposal is aimed at exploring the

issues pertaining to law enforcement's impact on immigration and the RERMV type crime, and (2) that it not focus only on looking at current policies, but looking at the interrelationship of those three areas: law enforcement policies, immigration, and RERMV crimes. It might take the form of a conference; it might take the form of something else. So we are not restricting it. She said the main thing is that, since he does have authority over law enforcement, he could talk about that and also the RERMV crime. But he really doesn't have specific authority over immigration policies, so he could call a conference or the whole panoply of other mechanisms by which the information could be exchanged.

Recommendation #16: Legislation should be introduced that prohibits the release of names and addresses of victims of hate crimes to the media.

Ms. Donahue explained that the recommendation was to prohibit law enforcement, not the press from printing this information. The issue here is primarily with gay men and lesbians who are victims of hate crimes who find themselves to be twice victimized. They are victims of hate crimes; they have reported it; it was written up in the paper that they were a victim of violence against a gay man or lesbian; they lose their jobs; they lose their house because they have been identified, their sexual orientation identified, for people to discriminate against them.

Commissioner Kasoy recommended the language be modified to say "legislation should be introduced that prohibits law enforcement authorities from releasing names and addresses of victims."

Commissioner Yu suggested the language should say, "or provide guidelines for the release of information." It may be in some instances you don't want to prohibit them because you want to give that attention and the victim feels there might be some benefit.

Recommendation #17: Legislation should be enacted requiring the establishment of a "Hate Crimes Unit" within the California Department of Justice Bureau of Criminal Statistics that would be responsible for gathering and publishing data on the occurrence of racial, ethnic, religious and minority violence within the State of California.

Ms. Mercado noted that the wording was changed to delete "legislation should be enacted", since this was not necessary, so that it reads "The Department of Justice should establish...". Mr. Medeiros said he had an additional question as to whether there was any particular need for establishing a hate-crimes unit within the Bureau, or whether just simply charging the Bureau with the responsibility to gather and publish the data would be sufficient.

Ms. Mercado noted that there was similar language in Recommendation #35 which calls for creation of a staff unit to coordinate actions under the Ralph Act, and asked if it should be merged with Recommendation #17.

Ms. Donahue noted that in the Litigation subcommittee recommendations that the Commission voted on some time ago there is a recommendation that the Civil Rights Unit of the Department of Justice maintain liaison with the Bureau of Criminal Statistics in order to be better able to establish pattern and practice.

Commissioner Yu wondered about the reason for Recommendation #35, and noted the intent was probably so that the right hand knows what the left hand is doing, and noted that there probably doesn't need to be a whole separate unit. She suggested that it be reworded to read that liaison be established within the Department to coordinate efforts to monitor Ralph Act proceedings. Ms. Donahue said she thought that there is already language in the Litigation Subcommittee's recommendations to do that.

It was suggested that this recommendation be set aside for the time being, until the Litigation Subcommittee's recommendations could be reviewed.

Recommendations #21, #22, #23, #24:

Commissioner Yu made a motion that there be parallel language used for Recommendations 21, 22, 23, and 24, regarding the disabled and elderly so that it is comparable to the language regarding other RERMV crimes. The motion carried.

Recommendation #29: The Department of Education should be budgeted to provide local schools with technical assistance to join with human relation agencies in designing and implementing strategies to reduce racial, ethnic, religious and minority violence.

Commissioner Yu said this recommendation was one where the Commission was contemplating adding some language "referring to, as manifested by, or exemplified by," Hands Across The Campus Program, to give people an idea of what kind of program was being referred to without giving a specific endorsement of one program over another. Commissioner Kasoy recommended the following changes: add after the words "designing and implementing strategies", the words "and additions to the curricula " to reduce racial, ethnic, religious, and minority violence as exemplified by the Hands Across the Campus Program that has been adopted by the Los Angeles Unified School District.

"Commissioner Coleman said that as far as the recommendation goes it is great; but he is concerned that it does not go far enough, because sexual orientation issues are omitted from the Hands Across the Campus Program, so to use the program as an example without some further statement that it should be expanded to include other aspects of minority violence, the focus will continue to be only on racial, ethnic, and religious violence.

Ms. Mercado noted that at the meeting on Sunday there was discussion that perhaps Commissioner Kasoy's amendment to the language would be more appropriate to add to recommendation #50. Commissioner Coleman said he would have the same objection there. He said he has no objection to the HAC program, but rather to making that the model for the state when there is that glaring omission.

After further discussion, Commissioner Yu moved approval of Recommendation #29 in principal as modified, with the exact language to be worked out by Ms. Donahue and Commissioners Kasoy and Coleman. The motion carried.

Recommendation #32: A statute patterned after California Civil Code Section 48.7 should be enacted to bar libel and other counterclaims in Ralph Act actions until the Ralph Act has been resolved.

Ms. Mercado noted that the Commission had agreed to change the wording from Ralph Act "actions" to "proceedings."

Ms. Donahue explained that the issue discussed at the meeting the previous evening related to Mr. Medeiros' earlier report; i.e., if the Ralph Act has become so broad as to include other acts of violence, the commission needs to decide if they want proposed amendments with the focus on just RERMV under the Ralph Act or other kinds of violence.

It was pointed out that statements made in the context of judicial or administrative proceedings are already privileged, and could not be the basis for a defamation action. This proposal would provide protection for persons who make extra-judicial statements (e.g., to the press) accusing someone of a Ralph Act violation. The point was made that the Commission may not have sufficient documentation of the need for such protection, and also that such an amendment could prejudice persons who are primarily defamed by substantially delaying their ability to file an action for libel or slander.

After further discussion, it was suggested that the recommendation be reworded to state "to hold any actions for libel and slander in Ralph Act proceedings until the proceeding has been resolved."

A motion was made and carried to approve Recommendation #32 reworded as follows:

Recommendation #32. A statute patterned after California Civil Code Section 48.7 should be enacted to toll any actions for libel and slander claims in Ralph Act proceedings until the Ralph Act proceeding has been resolved.

Recommendation #33. Legislation should be enacted to provide for calendar preference for Ralph Act actions.

A motion was made to change "Ralph Act actions" to "Ralph Act proceedings" and approve the recommendation.

A motion was made and carried to approve Recommendation #34 to read as follows:

Recommendation #34. The Ralph Act and the Unruh Act should be amended to clearly state that the Fair Employment and Housing Commission has jurisdiction to enforce these Acts.

Recommendation #35: The Attorney General should create a staff unit to monitor Ralph Act actions.

There was previous discussion of this item under Recommendation #17. Since this recommendation is covered in the report and recommendations of the Litigation subcommittee, a motion was made to delete this recommendation. The motion carried.



Recommendation #36: The Attorney General should recommend the development of Judicial Council forms and procedures patterned after those utilized in domestic violence cases to facilitate restraining orders and other forms of injunctive relief for victims of hate crimes.

Commissioner Yu suggested changing the words "patterned after" to "similar to", and from "domestic violence" to "harassment". She noted there was also a question raised about the phrase "victims of hate crimes", and that perhaps two definitions would have to be developed; 1) the broad definition; and 2) one that only implies when there is an actual criminal activity. With those amendments and the final change if necessary of the victims of hate crimes, Commissioner Yu moved adoption of the recommendation. The motion carried.

Recommendation #37: The Ralph Act should be amended to treble the actual damages awarded.

Discussion concerned whether the intent is to limit the award to treble amount of actual damages, which may be less than the \$10,000 fine presently provided for, or whether the trebling of damages should be in addition to the \$10,000 minimum fine. It was pointed out that if there are no actual damages, the victim would get nothing, because the language in the Ralph Act is different than the language of the Unruh Act which does specify that there is a \$250 minimum for actual damages.

A motion was made and carried that the recommendation be reworded to read "that the amount of damages be treble the amount of actual damages with a minimum of \$10,000."

Recommendation #47: The Attorney General should take action to increase the awareness of the media of their responsibility to portray positive images of all racial, ethnic, religious, and minority groups and of their role in preventing and responding to hate crime through effective reporting.

Ms. Donahue said there are two problems with this recommendation: 1) what is the Attorney General actually going to do; and, 2) the media does not have a responsibility to portray anybody in a positive image. She noted that in the presentation earlier by John Esterle, he had recommended that the Attorney General provide information to the media on a regular basis on the incidence of hate crimes.

Commissioner Coleman said if there is an ethical responsibility of the media it is basically to be accurate, fair, and balanced and not necessarily positive. He said he did not know that it is the Attorney General's responsibility to lecture the media on their ethical responsibilities, and was not sure this would be well received either by the Attorney General or by the media put forth in this way. Ms. Donahue said an alternative for consideration is to adopt a recommendation similar to what Esterle had talked about in the morning, and say, "The Department of Justice should make available regular reports on the incidence of RERMV to the media." It was suggested that instead of singling out the media, that information should be made available to all interested parties.

It was agreed that Recommendation #47 should be re-worded to incorporate these suggestions, and a motion was made to approve the recommendation.

Recommendation #50: The Department of Education should include human relations and cultural awareness in the state framework for educational criteria.

There was discussion as to whether this recommendation should be expanded to include sensitivity to members of racial ethnic, religious, and other minority groups, with reference to programs such as Hands Across the Campus. Ms. Donahue pointed out that we are talking about two different issues: 1) including in the state framework cultural diversity and human relations education; 2) providing local school districts with information on programs like Hands Across the Campus and the Institute for the Prevention of Lesbian Gay Youths and others. Commissioner Yu suggested that the Department of Education or any appropriate delegated agency be asked to develop material which could be used at the option of the school board. Ms. Donahue noted that these suggestions could effectively replace recommendations #50, 51, 52.

A motion was made and carried that Recommendations #50, 51, and 52 be merged and rewritten to incorporate the suggestions made.

Commissioner Coleman made a motion that Recommendation #53 be reworded to read:

Recommendation #53. POST should issue guidelines governing discrimination against gays and lesbians in law enforcement personnel practices. The motion carried.

Commissioner Coleman offered the following as new recommendations:

Recommendation #54 - That the Attorney General take appropriate steps to secure full law enforcement protection for Native Americans on reservations throughout California. A motion was made and carried to approve the recommendation.

Recommendation #55 - That the Attorney General take appropriate measures to inform local law enforcement agencies regarding their responsibilities in the area of law enforcement on reservations throughout California.

Commissioner Yu suggested that this recommendation should come first, that it should be number 54; that you should give the justification first, then the orders.

Deputy Attorney General Medeiros made an observation of protocol with respect to these two recommendations. He said that while he did not necessarily disagree that there are problems with law enforcement on any reservations, there might be a problem in that these recommendations suggest that law enforcement is not doing their job and we have not heard from law enforcement on the issue. If this is going to go into the final report which will go out to law enforcement there may be some criticism about the fact that they never had an opportunity to speak about it.

Ms. Donahue suggested an option is to frame these recommendations similar to others that have been made and say that a POST committee of Native American representatives should provide training, and the Attorney General could with law enforcement agencies to develop and implement a policy to ensure effective law enforcement protection and services.

Mr. Medeiros reiterated that his concern is that the Commission did not invite participating comment by law enforcement on this issue, and that it may leave the Commission open to some criticism in that it is suggesting that things need to be done and suggesting that a problem is out there, and we didn't really invite law enforcement to comment on that problem.

Commissioner Harvier said this was ludicrous to him because law enforcement has been involved in discussion of this problem since 1978. He said in fact the Attorney General's office has been involved in this, and there has been a deputy assigned to this particular project. He said he perceives a problem in that the two individuals that are assigned to work on this project are the same two individuals that are initially filing law suits against the tribes, and he would interpret that as a conflict of interest. He said law enforcement is aware of the problem because there have been meetings with them.

Commissioner Harvier said that with respect to the other question the statements he made are not all only his comments, but reflect the concerns of 40 to 50 of the leadership of the Native American community.

Mr. Medeiros again reiterated that his concern is directed to the credibility of the Commission's report. The Commission's report is going to be publicized and it is going out to law enforcement and others, and his only concern is whether or not the Commission's report will have sufficient documentation about the law enforcement problem to substantiate or suggest that there is a problem out there.

Commissioner Rodriguez noted that the Attorney General's office received complaints from law enforcement that they were not invited to the meeting in Fresno, and that the integrity of the Commission has to be preserved. He said the problem is how to address the issue being made by Mr. Medeiros within the time left. He said he had no problem supporting Commissioner Harvier's position but the Commission has to look at evidence to substantiate their recommendations.

Commissioner Yu suggested that perhaps one alternative would be to solicit affidavits from other tribal leaders so that we have accepted written testimony in lieu of oral testimony for legislative committee matters that justify the suggested proposals, since there is just a tiny window of time between now and the time the first draft of the report is due. She said there are two issues: 1) are there adequate facts to support the proposals; 2) was there adequate opportunity for response on the other side. She noted that the latter will come whenever the report comes out. There are a lot of these proposals that will trigger strong reaction, but that is part of why the Commission was created. The fact that the Commission even exists is something that perhaps law enforcement people take issue with. It suggests there is a problem there.

Commissioner Coleman said he had used the words "appropriate steps" because it leaves open a wide range of discretion in the Attorney General to determine if anything is necessary. It is not appropriate to take any action if no action is necessary.

He said another possibility to take care of the credibility problem would be to adopt these recommendations with the provision that they be transmitted to law enforcement agencies that may be interested in this to seek their response and if a response doesn't come back within a certain period of time we can assume they take no interest, and they just become the Commission's recommendations. If there is major opposition or something there may be some other way of dealing with this.

Mr. Mederios said that would create a problem because of the timing, because if somebody said they were opposed, or wanted the Commission to hear their side there isn't enough time to schedule a meeting. We would have to have the Commission as a body to hear that.

Commissioner Harvier said he equates this problem with hate crimes which the Commission has discussed, because it leads to an issue that becomes a hate crime situation. The problem centers around the idea that since reservations are non-taxable property, law enforcement agencies are reluctant to risk their deputies by sending them out to the reservation because there is no revenue coming in. The reverse side of the problem is tribal members believe law enforcement is not going to pay any attention to them anyway, and all of a sudden you have the creation of an atmosphere for racial violence.

Commissioner Coleman suggested that perhaps another more generic recommendation might accomplish a lot more than a general statement. He said it appears that there is a need for ongoing research, dialogue and study of this problem and apparently there is an ad hoc group that meets from time to time. He suggested a recommendation, "that the Attorney General" create a task force to examine Public Law 280, etc. and list the other issues. He suggested the purpose of that task force may be to review the adequacy of existing law to protect the civil rights of Native Americans on reservations and should include such other issues. Commissioner Harvier could work out with the consultants what would be appropriate for that Task Force to study.

Commissioner Yu suggested the recommendation should be that the Attorney General set up a Task Force to study what this commission didn't have time to study, to gather the information and assess the adequacy of current law in protections afforded to Native American citizens, and make appropriate recommendations.

Commissioner Coleman also suggested emphasizing that this is a high priority since there is a committee ongoing right now.

A motion was made to approve the recommendation as follows:

Recommendation #54. That the Attorney General establish a Task Force to study civil rights of Native Americans and make appropriate recommendations. The motion carried.

### Litigation Subcommittee Recommendations

Ms. Mercado noted that the recommendations proposed by the Litigation Subcommittee had been presented in their report which the Commission had approved and accepted at an earlier meeting. She read the recommendations. (Copy of Litigation Subcommittee report is attached, see Attachment B)

Ms. Donahue said she had spoken to Commissioner Lytle about the recommendations and she suggested some minor editing. She indicated that at some point under the recommendations for training of district and city attorneys and it should be made clear that while the Ralph Act is a civil act, it does allow district attorneys to represent the plaintiffs in a civil action.

Ms. Mercado said the subcommittee reports will be made appendices to the final report. She noted that some of the subcommittee's recommendations were included in those the Commission had approved in a slightly different form. There are some recommendations for administrative action that perhaps should be cleaned up to refer to the Department of Justice rather than a specific bureau.

One of the recommendations in the Subcommittee's report refers to the use of the California Specialized Training Institute as a training vehicle for local law enforcement. Mr. Persily asked if they had testified before the Commission. The response was they had not. He said he had spoken with them and there is specific legislation that includes them when dealing with racial, ethnic, religious issues, and they used to do that. However, there was some concern that they were training too heavily in actions that were not acceptable by groups that they were supposedly trying to help. There was legislation passed that removed them from training in this area. It was pointed out that since this was one of the recommendations approved by the Litigation Subcommittee we could not change their report. However, it was agreed that no action would be taken on the recommendation, since it is not included in the full Commission's recommendations.

Ms. Donahue pointed out that the significant difference in these recommendations and those approved by the Commission is that the Subcommittee's recommendations deal very specifically with the operation of the Attorney General's office with respect to the Ralph Act.

### **PRESENTATION BY DR. ALLEN SEID, ASIAN PACIFIC AMERICAN ADVOCATES OF CALIFORNIA**

Dr. Allen Seid, President of Asian Pacific American Advocates of California (APAAC), gave a brief overview of the organization, a statewide non-profit coalition of nearly 500 Asian Pacific American organizations, with headquarters in Sacramento. Its purpose is to advocate the common concerns shared by Asian Pacific Americans. He gave a history of the anti-minority sentiments particularly against Americans of Asian Pacific ancestry. He said today there is a resurgence of anti-Asian sentiments and actions which can be attributed in part to an activation of pre-existing latent racism, increased intolerance of cultural diversity in our society, national economic recession, and the large influx of new arrivals from Southeast Asian and other Asian countries.

Dr. Seid said each anti-Asian incident taken singularly can be mistakenly dismissed as an isolated event. But each incident analyzed carefully reveals a pattern unmistakably linked collectively to an alarming wave of anti-Asian animosity and violence sweeping throughout our state and across our nation.

Dr. Seid said a source of friction and misunderstanding emanates from the news media. He said most of the printed news and television coverages are negative with reference to refugees.

Dr. Seid read a series of recommendations which APAAC supports. A copy of the full text of Dr. Seid's comments is attached. (See Attachment C)

### **Special Considerations**

Commissioner Yu spoke to the "English only" issue. She said she felt it would be consistent with their other recommendations if the Commission were to take a position on this issue; if we oppose those kinds of movements which are used to deny adequate expression of one's racial or ethnic heritage, and to the extent that the "English only" movement is used to curb the exercise of those types of rights and privileges of American citizens or people in the country. There was some question where it would fit in the report, but agreement that it would be appropriate to take a position against it.

Ms. Donahue noted that this issue is similar to other issues that the Commission has talked about including in a section in the report on special considerations, but had not formally voted on.

Commissioner Yu suggested that the other concerns should be included with the explanation that while these specific issues are not directly within the purview of the Commission, it was felt that they had come up often enough and are related to many of the proposals the commission is making, to warrant mention in the report.

Commissioner Yu made a motion that the following specific items be included in a "special considerations" category in the final report: "English only" laws; Immigrants and refugees; Violence Against Women; Hate Violence in Prisons. The motion carried.

### **Subcommittee Reports**

Ms. Mercado asked for Commission approval of the report of the Legislation Subcommittee which was presented earlier by Commissioner Yu.

Commissioner Yu made a motion to adopt the report of the Legislation subcommittee as presented. The motion carried. (A copy of the report is attached, see Attachment D)

Ms. Mercado read the report of the Education Subcommittee. Msgr. Barry made a motion to adopt the report of the Education Subcommittee as presented. The motion carried. (A copy of the report is attached, see Attachment E).

There being no further business, Chairman Barry adjourned the meeting.

ATTACHMENT A

CRIME AND THE NEWS MEDIA  
PROJECT DESCRIPTION



**Unitarian Universalist  
Service Committee**

1251 Second Avenue  
San Francisco, California  
94122 USA  
(415) 731-3300

### **CRIME AND THE NEWS MEDIA PROJECT DESCRIPTION**

Crime and the News Media is a non-profit program that was established in August, 1985 to encourage more informative and more broadly focused reporting on crime and criminal justice issues. For the news media to become better informed about these complex and crucial issues, it is fundamental that opportunities for education and dialogue be established between the news media and the wide variety of individuals and organizations which are in some way involved with crime and justice issues. To help meet this need, Crime and the News Media was formed to better acquaint members of the local media with information, resources and contacts that they may not be aware of.

The news media significantly influence public attitudes about crime and the criminal justice system. For this reason it is imperative that news organizations offer accurate and in-depth reporting that informs rather than sensationalizes, that provides context as well as headlines, and that covers not only traditional approaches to dealing with crime, but desperately needed alternatives as well. It is this sort of reporting that Crime and the News Media is committed to encouraging.

To work towards this aim, Crime and the News Media will develop and produce a resource packet designed for the news media, while simultaneously monitoring local news coverage (selected print, radio and television organizations) in order to obtain a representative record of their reporting on crime and justice issues. The data and printed information from these research efforts will then be incorporated into a series of seminars which will be presented to local news media professionals early next year.

Journalists and a variety of experts on the criminal justice system, the sociology of crime, alternative sentencing, prison reform, and other topics will serve as resource speakers in focused discussions conducted by project staff. These seminars will be presented in the offices of local news organizations and at professional association meetings and will be targeted towards news editors, news directors and reporters.

The problem of crime in our society, and the response of the criminal justice system and various communities to it, are matters that the public cannot afford to be uninformed or misinformed about. As a pilot educational program and resource service, Crime and the News Media will hopefully help local news organizations do the best job they possibly can in reporting a complex and difficult issue that needs to be understood rather than feared.



ATTACHMENT B  
REPORT OF LITIGATION SUBCOMMITTEE

**ATTORNEY GENERAL'S COMMISSION ON RACIAL ETHNIC, RELIGIOUS  
AND MINORITY VIOLENCE**

**REPORT OF LITIGATION SUBCOMMITTEE**

Purpose:

The subcommittee is to develop strategies to assist the Attorney General in exercising his enforcement authority under applicable statutes with particular emphasis on the Ralph Act.

Background:

At the first meeting of the RERMV Commission, the suggestion was made that the Attorney General explore the possibility of bringing a civil action under the Ralph Act. The Act provides that all citizens have the right to be free from violence, or intimidation by threat of violence because of their race, color, religion, ancestry, national origin, political affiliation, sex, sexual orientation or position in a labor dispute....(Civil Code, Section 51.7)

Subdivision (b) of the Act provides that whoever denies the right or aids, incites, or conspires in the denial of the Section 51.7 right is liable for actual damages and an additional \$10,000 in punitive damages.

Subdivision (c) of the Act allows the Attorney General, the District Attorney, or the City Attorney to bring a civil action based on section 51.7 if there is reasonable cause to believe that persons are engaged in a pattern or practice of resistance to the full enjoyment of the rights embodied in the Act.

The first meeting of the subcommittee was confined to a discussion of possible strategies under the Ralph Act with subsequent meetings to be devoted to the Attorney General's general enforcement powers. The Subcommittee first identified criteria the Attorney General could use in selecting cases for Ralph Act enforcement. Two considerations were paramount in identifying the criteria. They were the need to 1) utilize limited Attorney General resources in a manner designed to produce the most successful result; 2) avoid a perception on the part of local officials that the Attorney General is unilaterally interfering in essentially local matters.

Criteria:

The criteria identified by the subcommittee are the following:

- (1) Multi-jurisdictional acts constituting a pattern and practice that crosses county lines;
- (2) Complexity of issues - Local officials may lack the resources to handle a factually or legally complicated matter;
- (3) High degree of controversy - Serious political or other constraints may impair the ability of local officials to handle a particular set of circumstances;

(4) Eggregiousness of the acts forming the basis of the suit. This criterion is further subdivided as follows:

- a) great property or personal injury.
- b) numerous victims;
- c) series of acts of long duration;
- d) serious threats of future violence.

(5) Case is of general "public interest" - This may include acts of violence against school children or acts of violence occurring in areas experiencing violence, in the recent past; e.g., Watts.

(6) Perpetrator of violence is a group as opposed to individuals.

There is some degree of overlap in these criteria, but they are sufficiently distinguishable from one another to serve as convenient guidelines.

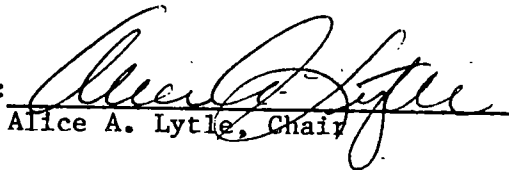
#### Recommendations:

The Subcommittee felt that certain administrative and political steps should be taken by the Attorney General to ensure that the office is properly prepared to handle a new type of case. The recommendations are:

- (1) An administrative procedure should be created within the Attorney General's office to provide for referral to the Civil Rights Enforcement Unit of matters involving possible Ralph Act violations
- (2) At the same time these matters should be referred to the Division of Law Enforcement, Bureau of Organized Crime & Criminal Intelligence (BOCCI), for possible inclusion into its statistical network. There should also be developed a "feedback" mechanism from BOCCI to the Civil Rights Enforcement Unit whenever the BOCCI notes circumstances indicating a pattern and practice of violence. Sources for "pattern and practice" information could be: 1) complaints coming into the Attorney General's office, 2) Department of Fair Employment and Fair Employment and Housing Commission files, 3) newspaper articles and TV news items, 4) local law enforcement files; etc.;
- (3) Screening procedures for the selection of Ralph Act cases should be developed for use at the initial intake stage and at the Civil Rights Enforcement Unit level;
- (4) Intake personnel in Attorney General's office should be trained in the use of appropriate criteria for use in screening cases;
- (5) A Referral policy should be utilized within the Civil Rights Enforcement Unit for cases that are unsuitable for Attorney General's Ralph Act enforcement but have potential for Ralph Act or regular Penal Code enforcement at the local level;
- (6) The Attorney General should provide training in Ralph Act enforcement for local district attorneys, city attorneys and law enforcement using P.O.S.T. and other mechanisms. In this regard the Attorney General should explore the possible use of the California Specialized Training Institute (CSTI) as an additional training vehicle for local law enforcement.

- (7) The Attorney General should take steps to heighten the sensitivity of local law enforcement to the importance of attaching more priority to Ralph Act type cases. One method of beginning this process would be through distribution of a letter expressing the Attorney General's new enforcement policy in this regard attached to a press release announcing the policy.
- (8) The Attorney General should solicit the assistance of district attorneys and city attorneys early in the development of Ralph Act enforcement policy.
- (9) The Attorney General should explore the feasibility of directly prosecuting under selected Penal Code provisions cases of racial violence unsuited for the Ralph Act or other civil enforcement.
- (10) The Attorney General should explore the possibility of Ralph Act enforcement against local law enforcement in appropriate cases. Such cases would, of necessity, require a showing of a "pattern and practice" within a police or sheriff agency. Moreover given the importance of honest, unbiased police enforcement to the safety and well-being of the community such an action would certainly be within the public interest.
- (11) The Attorney General should explore intervention into Ralph Act cases brought by district attorneys, city attorneys or private individuals. The letters mentioned earlier should include notification of this aspect of the Attorney General's enforcement policy.

It should be noted that one recommendation coming out of the Subcommittee dealt with an issue within the purview of the Legislative subcommittee. The Litigation Subcommittee submits the following recommendation: The Attorney General should be given express statutory authority to train police, district attorneys and city attorneys in the area of racial, ethnic, religious and minority violence.

Signed: 

Alice A. Lytle, Chair

ATTACHMENT C

PRESENTATION TO ATTORNEY GENERAL'S  
COMMISSION ON RACIAL, ETHNIC, RELIGIOUS, AND MINORITY VIOLENCE



Asian  
Pacific  
American  
Advocates of  
California

ATTACHMENT C

P.O. Box 214998  
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PRESENTATION TO  
ATTORNEY GENERAL'S  
COMMISSION ON RACIAL, ETHNIC, RELIGIOUS, AND MINORITY VIOLENCE  
Oakland, California  
January 15, 1986

BY

ALLAN L. SEID, M.D.  
PRESIDENT  
ASIAN PACIFIC AMERICAN ADVOCATES OF CALIFORNIA

## INTRODUCTION

Asian Pacific American Advocates of California (APAAC) is a State-wide non-partisan, non-profit coalition of nearly 500 Asian Pacific American (APA) Organizations in this state with headquarters in the state capital city of Sacramento. Its purpose is to advocate the common concerns shared by Asian Pacific Americans. More specifically APAAC's purposes are:

- To monitor, analyze and disseminate information on issues of concern to the Asian Pacific communities;

- To maintain a research capacity to identify and influence public policies affecting Asian Pacific Americans;

- To maintain an active, visible, and representative voice through the Sacramento office for California Asian Pacific American communities; and

- To educate the membership and general public about issues affecting Asian Pacific Americans.

APAAC is governed by a fifteen member Board of Governors selected by and from five regional governing boards to achieve geographical representation.

I am Dr. Allan L. Seid, President of APAAC's State Board of Governors, a Palo Alto Psychiatrist and Stanford Medical Center Clinical Faculty member by profession.

## ROOTS

The 1980's is a challenging time because there is across our land, frightening economic uncertainties which grow and persist; the deadly duo of inflation and recession strain purse-strings and psyches promoting distrust, insecurity, and an "each-man-for-himself" mentality. Students of American history know that economic hard times are accompanied by increased widespread anti-minority sentiments and actions. Specifically, there has already been severe and continuing erosion of civil rights--returning the mentality of "America for White Americans," and "America--love it or leave it," a resurgence of assimilationist ideology, and intolerance of diversity, a diminished sense of urgency and commitment to affirmative action programs, and increased ethnic isolation on and off the campuses.

For minority Americans of Asian Pacific ancestry, this hostile social climate sadly has been too frequently our collective and repetitive experience in America. The economic recession of the 1870's evoked mob violence and killings of Chinese and numerous discriminatory legislations which culminated with the infamous racist "Chinese Immigration Exclusion Law of 1882." In the recession of the early 1900's, identical animosities were directed at the Japanese beginning with the imposed 1906 "Gentlemen's Agreement" providing for "voluntary" numerical limitation of immigration by Japan, followed quickly by the 1913 discriminatory Alien Land Law forbidding land ownership by Asians, and peaking with the passage of the 1924 Japanese Immigration Exclusion Act. The recessions in the late 1920's repeated the earlier scenario of anti-Asian violence--now directed at the Filipinos who were recruited as laborers to replace the excluded



Japanese--the later who were themselves recruited earlier to substitute for the excluded Chinese. In 1939, capping a decade of anti-Filipino agitation, a Filipino Immigration Exclusion Act was similiary enacted.

Racism, wartime hysteria, and failure of political leadership in 1942 resulted in the internment of 120,000 Japanese American citizens and residents; they were pronounced "Guilty by ract" without due judical process. This Act was another sad chapter in American history.

Today we are here to address the resurgence of anti-Asian sentiments and actions. APAAC believes that the roots of anti-Asian animosity and violence can be attributed to at least the following factors:

- FIRST: Activation of pre-existing latent racism.
  - SECOND: Increased intolerance of cultural diversity in our society.
  - THIRD: National economic recession resulting in (a) massive lay-offs, high unemployment, and pervasive public feeling of financial insecurity, and (b) intensification of fierce competition for diminished job openings.
  - FOURTH: Large influx of new arrivals with non-caucasian physical features, different cultural practices and non-western languages from Southeast Asian and other Asian Countries over the last 10 years.
  - FIFTH: Scapegoating of Asian by both corporate management and labor union alike to cope with the sense of frustration, tension, helplessness, powerlessness, and hopelessness to stem, control, and reverse the economic recession.
  - SIXTH: Federal administrtion's fiscal policy of the last two years resulting in disproportionate hardships on the poor and lower-middle social economic citizens of American. . .
- A study by the non-partisan Congresssional Budget cuts endorsed by Presidnet Reagan and enacted by Congress over the last two

years hit poor families hardest. It said families making less than \$20,000 a year have borne 70 percent of the budget cuts and that average reductions in benefits per household are greatest for families earning below \$10,000.

The perceived pattern of anti-Asian discrimination and animosity being most prevalent among blue collar Whites, low income urban Blacks and Hispanic Americans---may in part be understood by the harsh realities delineated by the analysis of budget cuts' greater impact on the poor and those on the lower of the income ladder. In addition, innumerable well-conceived studies from the field of psychiatry, psychology, sociology and other behavioral sciences for more than a century in America have repeatedly demonstrated close correlation between poverty and increased prevalence and incidence of poor physical and mental health. Moreover, people in poverty were found to have markedly diminished capacity to utilize constructive rather than destructive behaviors to cope and control feelings of helplessness and hopelessness; hostilities and frustrations were more frequently acted out in violent and physically assaultive behaviors; scapegoating was a common defense utilized to ward off any personal responsibility or guilt for current suffering and stress.

SEVENTH: Another source of friction and misunderstanding emanates from the new media.

The new media, by and large, has not been giving the kind of portrayals that are crucial to counter-act the anti-Asian sentiment. Most of the printed news and television coverages are negative with reference to refugees. They accentuate the curious, sensationalize the negatives, and focus on differences in cultural practices and values leaving readers or viewers with the

Impression that "strange and treatening foreigners are among us" rather than "new Americans with potentially enriching charateristics and life-styles are residing in our community."

Eighth: Failure of Political Leadership at the Federal and State Level. At the federal level, domestic budget cut-backs with inordinate negative impact on the poor and lower-middle class has already mentioned. Federal domestic meat-ax reductions in public human services (health, mental health, education, social services, etc.) designed to serve the poor and lower-middle class populations were specially ill-timed and inhumane; these populations are precisely the ones needing these services more acutely as a result of economic recession and federal adopted fiscal policies. Another short-sighted federal fiscal act was the premature large reduction in refugee assistance monies to State still experiencing high demand for necessary basis human services by new arrivals to their jurisdiction. Alteration of federal regulations for reimbursements served to further diminished needed assistance for cost effective and human resettlement. The block grant approach to streamline federal expenditures have in practice already proven to be a disaster; instead of giving rise to more cost effective services, it has removed needed services resulting in widespread humna suffering and with regards to Asian refugees and immigrants, placed them in the unenviable position of competing with other needy populations and urban minorities for reduced rescures.

Our state legislature in 1981 through budget control language prioritized federal monies for federally funded services for refugees based on ill advised assumptions and unrealistic expectations. Social adjusment, mental health, health, and other

human support services were prioritized so as to be excluded for funding and monies were concentrated on employment related services such as language assistance, job training, and placement. The fatal flaw simply is that traumatized victims of war, more accustomed to an agrarian existence attempting resettlement in a new, industrialized and largely urban society require human support services in order to be sufficiently intact emotionally and psychologically to learn, assimilate, and integrate a new language and new job skills. Withdrawal of the human support services left essentially a population facing unrealistic expectations for rapid language acquisition and successful job skill development. Blaming the victim for staying on the meager temporary and short-term public assistance programs is to miss the mark. Finally, the state "CAP" on expenditures to 2% per year for expansion of adult education programs need to be overhauled. Currently eager Asian refugees and immigrants anxious to learn English are turned away by the hundreds in urban center populated heavily by newcomers due to limited available classes. Ridiculous long waiting lists for Asian immigrants and refugees compound their problems to develop financial self-sufficiency.

ROAR

The roar of anti-Asian animosity and violence has indeed been loud. Each anti-Asian incident taken singularly can be mistakenly dismissed as an isolated event. But each incident analyzed carefully reveals a pattern unmistakably linked collectively to an alarming wave of anti-Asian animosity and violence sweeping throughout our state and across our nation. Its manifestations are many and varied.

Killings are but one of the more dramatic anti-Asian incidents. Most renowned, due to outrageously poor judicial handling, was the fatal baseball bat clubbing of Chinese American, Vincent Chin, by two white unemployed Detroit auto workers. The admitted killers mistook Chin for a Japanese national and vented their hostilities toward Japan---the nation allegedly responsible for the high unemployment rate in the U.S. auto industry. The light sentencing of the two killers sparked a wave of indignation and anger in Asian communities throughout the nation and has at this point brought forth a federal grand jury indictment for civil rights violations by the two assailants,

The fatal stabbing of Thong Hy Huynh, a 17 year old Davis High School student on May 4, 1983, following weeks of racial tension in the school is another tragic incident with racial undertones; the assailant remains free on appeal of a lower court ruling that he be tried as an adult.

Thong Sou Kaseume, a Laotian newcomer and four year resident of Fort Dodge Iowa, was mistaken for a Japanese and attacked last month. His assailant almost cut the victim's ear off with a knife during the vicious assault. The judge provided no imprisonment, no fine, no probation for the person responsible for this attempt on Kaseume's life. Instead, the assailant was released with the proviso that he write an essay on the Laotian culture as his punishment for attempt murder.

Another baseball bat murder, this summer in Dallas, Texas, of Cambodian leader Mr. Pech remains unresolved. The characteristics of this killing

resembles too painfully the murder of Vincent Chin.

Other headlines of bodily violence against Asians within this year alone are follows: Six year old Asian girl abducted and slain (Nga Thi Nguyen), Garden Grove, CA.; Sniper shot kills Vietnamese widow, (Trac Thi Vu), Los Angeles, CA.; Asian shop owner slain by three teenagers, Pasadena, CA.; Brutal rape and murder of Asian women, Washington D.S.; Violent beating and rape of Asian women, Huston, Texas; Oriental women found dead off Pescadero Water, Redwood City, CA.; Shot-gun wounding of 10 year old Cambodian (Chansopheha Nhim), Huston, Texas; Chinese-American fatally stabbed in traffic dispute (Paul Wu), San Francisco, CA. Chinese policeman Frank Lowe felled by shot, Oakland, CA.; Quick action averts shot-gun fight between Laotian and White Neighbor, San Jose, CA.; Fatal attacks on Asian have also been reported in Boston, New York, and other East Coast cities.

Property damage associated with and without personal assaults have also been prevalent.

One on-going explosive situation exists between White and Vietnamese fishermen at Moss Landing, Monterey County. Tension between the two groups have flared up all summer resulting in racial hostilities, physical harassment and the burning of Vietnamese boats.

In addition the Vietnamese have been taunted and shoved around by unidentified assailants, had their nets stolen, their boats untied in the middle of the night and their nets sliced by speeding American boats. Boycotting of the catch by local buyers have forced the Vietnamese to travel long, costly, and time-consuming distances to make sales essential for survival.

Another example of employment competition induced anti-Asian animosity and violence surfaced last July in the San Joaquin agricultural area. A week long confrontation between 350 protesting Mexican-American tomato pickers and a large number of unwitting Indochinese "strikebreakers" occurred in Stockton, CA. - The confrontation flared into violence on two days when a dozen Chicanos were arrested and several injured after they charged through police lines into the

fields where Southeast Asians and others had replaced them.

The Indochinese, most of whom speak neither English or Spanish, some who cannot read or write, who have no concept of labor unions and little knowledge of fair labor laws, salaries and practices, and willing to work for below union wages--are unwittingly caught between two antagonistic forces--the unions and the agricultural employers. Similar tensions and confrontations are predicted in other agricultural areas of California; another potential explosive area is in Fresno County where large number of Hmong-Laotian have settled. Rapid intervention is sorely needed in the agricultural area to avert additional confrontations or tragedies.

Anti-Asian animosity and violence also exist in the professions as illustrated by the following two examples:

Graduates from medical schools in Asia and other countries, despite passing the American Foreign Medical Graduate Licensure Examination, are systematically denied hospital internships which is required to obtain a medical license to legally practice medicine. A billion dollar lawsuit has been filed by two Filipino physicians against the American Medical Association, American Hospital Association and other related parties. The suit seeks to overturn the arbitrary barrier to hospital internships. The suit support by The Association of Philippine Practicing Physicians in America.

The second example is that of the three year long battle, thus far unsuccessful, of Southeast Asian graduates of Pharmacy School to obtain licensure to practice without repeating training which they have had. Rigid and unreasonable demand for unobtainable documents of training from schools in countries now controlled by the communist has been the barrier. Many of the pharmacy schools have been destroyed or closed by the new regimes; those schools still existing will not forward transcripts to its graduates who are considered traitors by virtue of collaboration with the Americans. As a result, large numbers of well-trained and qualified pharmacist are relegated to other employment.

Another anti-Asian vandal incident illustrating the interplay of the three factors of racism, economic woes, and scapegoating is the painting of the word "JAP" on the garage door of a Japanese American congressman from California. This same American born congressman was vilified on a radio talk show for attack on Pearl Harbor when he out for reparation for Japanese American incarcerated in camps during World War II.

Other property damage incidents suspiciously suggesting anti-Asian motivation include the following occurrences:

(a) Recently the home of a Chinese American (Pauline Tseng) in Los Angeles was severely damage by a mysterious explosion; (b) During the last July 4th weekend, tires were slashed on 31 autos in the San Jose Laotian community; (c) Vandalism of signs at the historical site of China Camp, Marin County have repeatedly occurred this year; (d) Repeated cross-burnings were perpetrated on the lawn of a Filipino family (David family) last December in San Leandro, CA.; (e) Another mysterious fire damage of a Nikkei's home (Geroge Amamoto) in San Mateo, CA. was reported las August; (f) One week ago, vandals damage or destroyed 71 Japanese stombstones at the Mountain View Cemetery in Fresno, CA.---initial damage estimate is reported to be at least \$20,000 not including of course the priceless sentimental value.

Another manifestation of anti-Asian animosity and violence is that perpetrated by the printed and electronic media. Whether inadvertent or deliberate, negative and inaccurate portrayals of Asian in America infalame latent racist attitudes and behavior toward Americans of Asian Pacific descent.

Time magazine's feature article (July 13, 1983 issue) entitled "Los Angeles--- America's New Uneasy Melting Pot" in its July 13, 1983 issue was a disservice to all Americans because of its inaccurate and derogatory portrayals of Asian immigrants; it was particularly demeaning of the Los Angeles Korean Community and served to heighten inter-group tensions already extant in the region. Especially disturbing was the magazines refusal to acknowledge legitimate and



knowledgable critical analysis of the content and thrust of the article.

Last July, The Tacoma News Tribune's five part series entitled "The Korean Influence" appeared to be declaring an open season on Tacoma Washington's Korean American Community.

The newspaper ran such "Scare Tactics" and "Racist" headlines as

"Trickle Turned Into a Flood of Immigrants"

"U.S. Now Open Its Door to 30,000 Koreans Each Year"

"Marriage Can Be Ticket to U.S."

"Immigration Laws Favor Spouses and Open Gates to Their Families"

"I Do' Can Put a Korean in the U.S.---Quickly"

"Some Koreans Till a Fertile Field --Here - Crime"

Such Journalism pander to the lowest racist instincts of bigots and is a manifestation of anti-Asian sentiment and violence.

Similarly newspaper and magazine headlines such as "Koreans Invade Silicon Valley" (San Jose Mercury News) and "Spy in Silicon Valley" (Fortune Magazine, February 1979) evoke images of the "Yellow Hordes of Gengis Khan" and damage inter-group harmony in communities.

Finally, a recent semi-documentary portrayal of Korean immigrants on a major television network was not only inaccurate but offensive. Misinformation about Asian Americans transmitted by the electronic media is not only powerful but serves to undergird pre-existing stereotypes, develops new misunderstanding and ill-will between Asian and non-Asian American citizens.

Inaccurate portrayals in printed and electronic media has and continues to be a source and stimulant for anti-Asian animosity and violence.

The Los Angeles Times article of June 2, 1983 highlights another manifestation of and source for anti-Asian animosity and violence---namely "Boosterism". It insightfully suggests that the "Detroit (Chin) Killing Shows that Boosterism Can breed Racism" I quote:

"In the Motor City, which has one of the highest unemployment rates

SLID 12

in the country the issue of imported cars is an emotional one. At the United Auto Workers headquarters here, Foreign cars are prohibited from entering the parking lot. Whenever a government agency buys an imported auto it finds itself at the receiving end of furious newspaper editorial. A locally produced record entitled "Wee Foo Yoo" in which a laughing Asian-Accented voice ridicules a General Motors-Toyota agreement, enjoyed a brief popularity on the air waves.

The Chin Case illuminated an ominous flip side to local boosterism. As Chinatown's Yee explained, "Ebens" ...racial hatred was so strong that he just wanted to get an Asian any Asian.

"Real Americans Buy American" continues to be one of the more popular saying gracing the large chrome bumpers of cars in Detroit. The case of Vincent Chin has peeled back those slogans showing that what makes them cling to the chrome is a powerful and ugly undercurrent of racism. It's a revelation that we Detroiters will not soon forget."

Indeed bumper stickers with such slogans as "Toyota-Datsun-Honda and Pearl Harbor" and "Unemployment-Made in Japan" are both a source and a manifestation of anti-Asian sentiments and actions.



Asian  
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## SPECIFIC RECOMMENDATIONS

A. Specific Hate Crime Legislation should be enacted with the following provisions:

1. Provisions to require law enforcement agencies to report "Hate Crimes" to the Department of Justice.
2. Statutes authorizing and funding technical assistance to law enforcement agencies for implementing reporting system.
3. Provisions to require the California Department of Justice to collect and disseminate information on the incidence of hate crimes.
4. Provisions authorizing and funding a "Hate Crime Unit" in the California Department of Justice responsible for data compilation, analysis, report preparation and publication, distribution and publicizing to at least the following:
  - a) Law Enforcement Agencies
  - b) School Boards and School Administrators
  - c) Human Relations Commission
  - d) Community Organizations
  - e) Media
  - f) Others
5. Increasing the penalties for specific crimes based on race, religion, ethnicity etc.

B. APAAC supports the following recommendations on training.

1. Basic police academy courses should include training on cultural differences and racial, ethnic, religious and minority violence.
2. The Attorney General should appoint a committee of POST and minority community representatives to set specific training objectives on racial, ethnic, religious and minority violence.
3. The recommended committee composed of POST and minority community representatives should review course materials and curriculums designed to meet the training objectives they set and review resumes of appropriate trainers. Recommended materials, curriculums and lists of certified trainers should be circulated to all police academies in California.
4. POST should work with minority community representatives to design training objectives for field training officers on cultural differences and racial, ethnic, religious and minority violence. The objectives should be incorporated into existing field training programs.
5. POST should certify and provide reimbursement for advanced officer courses providing information on preventing community disruption.
6. The California Department of Justice Civil Rights Division should work with minority community representatives and district attorneys to develop educational programs and materials focusing on, but not limited to, Section 11410 (terrorizing), Section 11411 (burning or desecration of religious symbols, placement or display of physical impressions), and Section 11412 (threats obstructing exercise of religion) of the California Penal Code.

7. The Department of Justice should distribute model procedures to assess the potential for racial, religious, ethnic and minority conflict to law enforcement agencies.
8. Office of Criminal Justice Planning funds should be made available to law enforcement agencies and community organizations to develop procedures for preventing racial, ethnic, religious and minority violence.
9. Office of Criminal Justice Planning funds should be made available to community organizations for establishing programs for victims and witnesses of hate crimes and to establish working agreements between the programs and district attorneys.
10. Legislation should be introduced that prohibits the release of names and addresses of victims of hate crimes to the media.
11. The Department of Justice should sponsor a conference to examine existing local law enforcement policies on immigration and their ramifications on hate crimes.

C. APAAC supports the following recommendation regarding the Ralph Act:

1. A statute patterned after California Civil Code Section 48.7 should be enacted to bar libel and other counter claims in Ralph Act actions until the Ralph Act action has been resolved.
2. Legislation should be enacted to provide for calendar preference for Ralph Act actions.
3. The Ralph Act and the Unruh Act should be amended to clearly state that the Fair Employment and Housing Commission has jurisdiction in action involving violence motivated by bigotry.
4. The Attorney General should create a staff unit to monitor Ralph Act actions.
5. The Attorney General should recommend the development of Judicial Council forms and procedures patterned after those utilized in domestic violence cases to facilitate restraining orders and other forms of injunctive relief for victims of hate crimes.
6. The Ralph Act should be amended to treble the actual damages awarded.
7. Legislation should be enacted to authorize state funds to provide costs and attorneys fees for plaintiffs who prevail in Ralph Act actions and in seeking injunctive relief against hate violence when the defendant(s) is (are) judgment proof.

D. APAAC supports the following recommendations regarding schools:

1. The Department of Education should be budgeted to provide local schools with technical assistance to join with human relation agencies in designing and implementing strategies to reduce racial, ethnic, religious and minority violence.

2. California Penal Code Section 628 et. seq. should be amended to include specific notation of incidents of racial, ethnic, religious or minority violence. Reports should be required to be sent to local school boards and local human rights agencies as well as those agencies specified in existing legislation.
3. The Department of Education should compile a list of human rights resources for schools within California and distribute them to reach school district.
4. The Department of Education publish and destribute a hand book on myths and stereotypes of diverse people comprising the American citizenry.
5. The Department of Education working with Law Enforcement Agencies, Human Relations Commissions and Community Organizations to
  - 1) Re-institute multicultural education classes either as specific course offerings or as a significant part of the requires social studies currilums.
  - 2) Strengthen the Department's and State Board of Ecuation's Curriculum Commission's committee mandate to review textbooks and other curriculum materials for legal compliance to be racist-free and sexist-free.
6. The Department of Education should provide training for teachers and adminis-  
trators on sensitivity to cultural diversity, effective teaching of human  
relations and cultural awareness, and response to violence motivated by  
bigotry.

APAAC recommends the establishment of a perminent State Commission on Racial, Ethnic, Religious and Minority Violence with a specific standing committee on Asian Pacific Americans and one each for other major racial/religious groups.

APAAC recommends that the Attorney General take action to increase the awareness of the media of their responsibility to portray positive images of all racial, ethnic, religious, and minority groups and of their role in preventing and responding to hate crime through effective reporting.

ATTACHMENT D

ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS  
AND MINORITY VIOLENCE  
REPORT OF LEGISLATIVE SUBCOMMITTEE REPORT

ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS,  
AND MINORITY VIOLENCE  
REPORT OF LEGISLATIVE SUBCOMMITTEE REPORT

The goal of the Legislative subcommittee is to inquire whether or not legislation affecting the racial, ethnic, religious and minority violence is adequate or whether better and stronger remedies, civil and criminal, should be instituted in order to combat this type of violence.

The Committee held two public hearings - one in Los Angeles and one in San Francisco to determine the effectiveness of the Ralph Civil Rights Act, and to hear testimony regarding other remedies to make the Act more effective.

Testimony was received from private individuals, attorneys and lay persons, law enforcement officers, as well as community and minority civil rights organizations such as the NAACP, MALDEF, Chinese for Affirmative Action, Asian Law Caucus, APAAC, etc.

Based on this testimony the Legislative subcommittee recommends the following actions:

Recommendations:

1. The Ralph Act should be amended to include the awarding of legal fees for legal representation in successful actions.
2. A criminal statute patterned after the Massachusetts Civil Rights Act of 1979 should be enacted to deter and respond to hate crimes.
3. California Penal Code Section 628 et. seq. should be amended to include specific notation of incidents of racial, ethnic, religious or minority violence. Reports should be required to be sent to local school boards and local human rights agencies as well as those agencies specified in existing legislation.
4. A statute patterned after California Civil Code Section 48.7 should be enacted to bar libel and other counter claims in Ralph Act actions until the Ralph Act action has been resolved.
5. Legislation should be enacted to provide for calendar preference for Ralph Act actions.
6. The Ralph Act and Unruh Act should be amended to clearly state that the Fair Employment and Housing Commission has jurisdiction in actions involving violence motivated by bigotry.
7. The Attorney General should recommend the development of Judicial Council forms and procedures patterned after those utilized in domestic violence cases to facilitate restraining orders and other forms of injunctive relief for victims of hate crimes.



8. The Ralph Act should be amended to treble the actual damages awarded.
9. Legislation should be enacted to extend S.B. 2080 and require the California Department of Justice to collect and disseminate information on the incidence of hate crimes.
10. Legislation should be enacted to authorize state funds to provide costs and attorneys fees for plaintiffs who prevail in Ralph Act actions and in seeking injunctive relief against hate violence when the defendant(s) is (are) judgement proof.
11. Legislation should be enacted to amend California Penal Code section 1175.5, which identifies motivation by bias based on race, religion, or ethnicity as aggravating factors for consideration in sentencing, to include bias based on sexual orientation, disability, or age as aggravating factors for consideration at sentencing.

Signed: \_\_\_\_\_

Diane C. Yu

Chairperson

Legislative Subcommittee

January 15, 1986

ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS  
AND MINORITY VIOLENCE

REPORT OF THE EDUCATION/COMMUNITY RELATIONS SUBCOMMITTEE

**ATTORNEY GENERAL'S COMMISSION ON RACIAL, ETHNIC, RELIGIOUS  
AND MINORITY VIOLENCE**

**REPORT OF THE EDUCATION/COMMUNITY RELATIONS SUBCOMMITTEE**

A major goal of the Education Subcommittee is to develop strategies to increase public awareness of the reality and nature of violence against minorities; to provide information to the public and victims on their rights under the law and the resources and remedies available.

The subcommittee recommends the following actions:

**Community Relations**

1. That the Attorney General introduce legislation urging creation of Human Relations Commissions in each county and that funding be provided to allow them to fulfill their mandate.
  - that funding be provided for translators to work with hate crime victims; and for the development of intensive community training seminars on the judicial system.
  - that the Human Relations Commissions be encouraged to establish a statewide network for information sharing, identification of model programs which can be implemented in other areas and statewide as appropriate.
2. That the Department of Justice Civil Rights Section annually update and distribute the civil rights handbook to: community organizations, law enforcement agencies, schools, and other appropriate agencies.
3. That a brochure be developed for distribution to the public as an information handout on victims rights and remedies, and that it be distributed in mass quantities to community groups, agencies, churches, etc.; and that it be translated into other languages as appropriate.
4. That the Attorney General consider development of a Civil Rights newsletter, and that it be given wide distribution to community groups, schools, etc. to raise public awareness of the problem of RERMV crimes, and current events in the area of civil rights.
5. That the Department of Justice Crime Prevention Center update its brochures on how to avoid becoming a victim for the elderly and disabled, and that these brochures be made available in other than English languages.
6. That the media be made aware of their responsibility to portray a positive image of all ethnic, religious and minority groups; and that sensitivity in reporting crimes is an important factor in fighting RERMV.

7. That the Attorney General consider establishment of an "800" number to serve as a hotline for victims of RERMV crimes to provide information on where and how to report these crimes.

### **Education/Training**

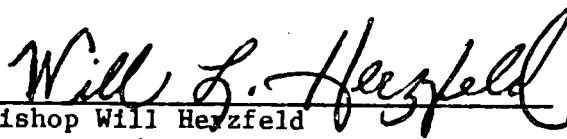
California has a rich history of racial, ethnic, religious and lifestyle differences, and tensions seem to reappear with each new generation. One of the best places to start to reduce these generational antagonisms is our schools. According to one report, 46.8% of the students in our schools are minority students. In order to reduce the tensions which lead to violence we must teach our young people how to relate to one another. Therefore, the subcommittee recommends the following actions:

8. That the Attorney General impress upon the Superintendent of Public Instruction the necessity for cultural relations programs in the public school curricula, and encourage implementation of such programs on a statewide basis.
9. That the Department of Education provide training for teachers and administrators on sensitivity to cultural diversity; effective teaching of human relations and cultural awareness; and response to racial, ethnic, religious, and minority violence.
10. That the Department of Education evaluate curricula to insure it includes accurate information, not stereotypes, about immigrant cultures.
11. That the Department of Education produce a booklet on the myths and stereotypes about homosexuality.
12. That the Attorney General stress to law enforcement the need for sensitivity to diverse cultures and human relations; and that he request that the time assigned to community/cultural relations segment of the POST basic training course for law enforcement officers be increased.
13. That the POST Commission study the issue of sexual orientation nondiscrimination and issue guidelines governing local law enforcement employment policies and practices.

In addition, the Subcommittee recommends that the Commission stress to the Attorney General that, while not specifically within its mandate, to the degree that the movement to provide sanctuary for persons from Central America seeking refuge in this country results in exploitation and violence, it must be addressed by our criminal justice system to assure full protection of their civil rights.

Likewise, the problems of undocumented persons, particularly as they become victims of crime and violence because they are an especially vulnerable group who easily become targets for exploitation should be addressed, and the Subcommittee recommends that the Commission urge the Attorney General to explore means of addressing and alleviating these problems.

The issues of school and gang violence, as well as prison violence, while also not in this Commission's mandate, cannot be ignored when dealing with the whole issue of violence based on bigotry and hatred. The Subcommittee recommends that the Commission urge the Attorney General to explore means of alleviating and/or eliminating these problems.

  
Bishop Will Herzfeld  
Education/Community Relations  
Subcommittee Chairperson

**HUMAN RIGHTS RESOURCE CENTER**  
1450 Lucas Valley Road, San Rafael, CA 94903  
Telephone: (415) 499-7463

December 31, 1985

To: Commissioners, Attorney General's Commission on Racial, Ethnic,  
Religious and Minority Violence

From: Human Rights Resource Center

Re: Summary of proposed recommendations/January 15, 1986, meeting for  
the consideration and action on proposed recommendations

Enclosed, please, find: 1) Summary of proposed recommendations for  
consideration and action by the Commission and 2) Information on  
proposed legislative recommendations as requested by the Legislative  
Committee.

The Agenda for the Commission's January 15, 1986, meeting includes final  
action on proposed recommendations. The list of 53 recommendations is a  
formidable one. Many of the recommendations have been the subject of  
discussion and agreement in committees. Others will require more extensive  
discussion.

Your reviewing the recommendations and identifying those you have  
questions or concerns about before the meeting will facilitate the  
discussion. Please note the numbers of recommendations you want to  
discuss in some depth at the Commission meeting.

If you want to add recommendations to the list for consideration or if you  
do not plan to attend the meeting, please contact Trish Donahue at  
(415) 499-7463 by January 13, 1986, at 5:00 p.m. to allow us time to prepare  
your additions and comments for distribution to the full Commission.

If you have questions about the recommendations or need more information  
before the meeting please contact us.

## PROPOSED RECOMMENDATIONS

1. The Ralph Act should be amended to include the awarding of legal fees for legal representation in successful actions.
2. A criminal statute patterned after the Massachusetts Civil Rights Act of 1979 should be enacted to deter and respond to hate crimes.
3. A "hate crime" law should be enacted as a special statute and contain a broad range of penalties.
4. Basic police academy courses should include training on cultural differences and racial, ethnic, religious and minority violence
5. The Attorney General should appoint a committee of POST and minority community representatives to set specific training objectives on racial, ethnic, religious and minority violence.
6. The recommended committee composed of POST and minority community representatives should review course materials and curriculums designed to meet the training objectives they set and review resumes of appropriate trainers. Recommended materials, curriculums and lists of certified trainers should be circulated to all police academies in California.
7. POST should work with minority community representatives to design training objectives for field training officers on cultural differences and racial, ethnic, religious and minority violence. The objectives should be incorporated into existing field training programs.
8. POST should certify and provide reimbursement for advanced officer courses providing information on preventing community disruption.
9. The California Department of Justice Civil Rights Division should work with minority community representatives and district attorneys to develop educational programs and materials focusing on, but not limited to, Section 11410 (terrorizing), Section 11411 (burning or desecration of religious symbols, placement or display of physical impressions), and Section 11412 (threats obstructing exercise of religion) of the California Penal Code.
10. The Department of Justice should distribute model procedures to assess the potential for racial, religious, ethnic and minority conflict to law enforcement agencies.
11. Office of Criminal Justice Planning funds should be made available to law enforcement agencies and community organizations to develop procedures for preventing racial, ethnic, religious and minority violence.

12. Enabling legislation should be enacted mandating the California Specialized Training Institute or some other appropriate agency to provide training for the coordination of activities of law enforcement agencies and community organizations to prevent and respond to racial, ethnic, religious, and minority violence.
13. Office of Criminal Justice Planning funds should be made available for technical assistance to law enforcement agencies to implement protocols based on the NOBLE model law enforcement response to hate crimes.
14. Office of Criminal Justice Planning funds should be made available to community organizations for establishing programs for victims and witnesses of hate crimes and to establish working agreements between the programs and district attorneys.
15. The Department of Justice should sponsor a conference to examine existing local law enforcement policies on immigration and their ramifications on hate crimes.
16. Legislation should be introduced that prohibits the release of names and addresses of victims of hate crimes to the media.
17. Legislation should be enacted requiring the establishment of a "Hate Crimes Unit" within the California Department of Justice Bureau of Criminal Statistics that would be responsible for gathering and publishing data on the occurrence of racial, ethnic, religious and minority violence within the State of California.
18. The California Justice Department should provide financial resources and technical assistance to counties within California to establish and maintain centers that will maintain the responsibility for gathering information and developing appropriate responses to incidents of racial, ethnic, religious and minority violence in cooperation with local law enforcement.
19. Office of Criminal Justice Planning matching funds should be made available to counties for the establishment of centers to provide victim services based on the Montgomery County, Maryland models. The scope of the victim services provided should be expanded to include victims of minority violence.
20. Legislation should be introduced to require law enforcement agencies to report "hate crimes" to the Department of Justice Bureau of Criminal Statistics and to authorize technical assistance to law enforcement agencies for implementing reporting systems.



21. Legislation should be enacted requiring the California Department of Justice Bureau of Criminal Statistics to gather and publish data on the occurrence of crime against elderly and disabled persons within the State of California.
22. The Attorney General should appoint a committee of POST and elderly and disabled community representatives to design specific performance objectives and training guides.
23. POST should work with elderly and disabled community representatives to design training objectives on working with elderly and disabled persons for field training officers to be incorporated into field training programs.
24. POST should certify advanced officer training on crimes relating to the disabled and elderly.
25. Office of Criminal Justice Planning funds should be made available for technical assistance to law enforcement agencies to establish units to respond to situations involving the mentally disordered based on the San Francisco Police Department Psychiatric Liaison Unit.
26. Office of Criminal Justice Planning matching funds should be provided to law enforcement agencies to establish escort services for elderly and disabled persons based on the San Francisco Senior Escort Service program model.
27. Office of Criminal Justice Planning technical assistance funds should be made available to assist in the development of working agreements between district attorneys' offices and organizations with elderly and disabled members to support victim services provided by community organizations.
28. Office of Criminal Justice Planning technical assistance funds should be made available for the development of self-protection programs based on the models used by rape crisis centers and the child assault prevention programs.
29. The Department of Education should be budgeted to provide local schools with technical assistance to join with human relation agencies in designing and implementing strategies to reduce racial, ethnic, religious and minority violence.
30. California Penal Code Section 628 et. seq. should be amended to include specific notation of incidents of racial, ethnic, religious or minority violence. Reports should be required to be sent to local school boards and local human rights agencies as well as those agencies specified in existing legislation.
31. The Department of Education should compile a list of human rights resources for schools within California and distribute them to each school district.

## RECOMMENDATIONS PROPOSED IN FULL COMMISSION AND COMMITTEE DISCUSSIONS

32. A statute patterned after California Civil Code Section 48.7 should be enacted to bar libel and other counter claims in Ralph Act actions until the Ralph Act action has been resolved.

33. Legislation should be enacted to provide for calendar preference for Ralph Act actions.

34. The Ralph Act and the Unruh Act should be amended to clearly state that the Fair Employment and Housing Commission has jurisdiction in actions involving violence motivated by bigotry.

35. The Attorney General should create a staff unit to monitor Ralph Act actions.

36. The Attorney General should recommend the development of Judicial Council forms and procedures patterned after those utilized in domestic violence cases to facilitate restraining orders and other forms of injunctive relief for victims of hate crimes.

37. The Ralph Act should be amended to treble the actual damages awarded.

38. Legislation should be enacted to extend S.B. 2080 and require the California Department of Justice to collect and disseminate information on the incidence of hate crimes.

39. The Attorney General should take action to extend the term of the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence with responsibility for monitoring the collection and dissemination of information on the incidence of hate crimes.

40. Legislation should be enacted to authorize state funds to provide costs and attorneys fees for plaintiffs who prevail in Ralph Act actions and in seeking injunctive relief against hate violence when the defendant(s) is (are) judgement proof.

41. Legislation should be enacted to amend California Penal Code section 1175.5, which identifies motivation by bias based on race, religion, or ethnicity as aggravating factors for consideration in sentencing, to include bias based on sexual orientation, disability, or age as aggravating factors for consideration at sentencing.

42. Legislation should be enacted that provides for creation of human relations commissions in every county with an "appropriate level" of funding.

43. The Department of Justice Civil Rights Section should annually update the civil rights handbook published under the auspices of the Attorney General's Commission on Racial, Ethnic, Religious, and Minority Violence and distribute it to community organizations, law enforcement agencies, schools, and other appropriate organizations.

44. The Department of Justice Civil Rights Section should distribute a general public information brochure that provides information on hate crime victims rights and remedies. The brochure should be distributed widely to community groups, social service agencies, churches, and other organizations in as many languages as appropriate.

45. The Department of Justice Civil Rights Section should regularly publish a newsletter with information on hate crimes and current events pertaining to civil rights for wide distribution to community organizations, schools, law enforcement agencies, and other organizations.

46. The Department of Justice Crime Prevention Center should update its crime prevention materials for elderly and disabled persons and make those materials available in languages other than English.

47. The Attorney General should take action to increase the awareness of the media of their responsibility to portray positive images of all racial, ethnic, religious, and minority groups and of their role in preventing and responding to hate crime through effective reporting.

48. The Department of Justice Civil Rights section should establish an "800" number to serve as a hotline for victims of hate crimes to report the crimes and receive referrals to further assistance.

49. The Department of Education should provide training for teachers and administrators on sensitivity to cultural diversity; effective teaching of human relations and cultural awareness; and response to violence motivated by bigotry.

50. The Department of Education should include human relations and cultural awareness in the state framework for educational curricula.

51. The Department of Education should review curricula to insure it includes accurate information, not stereotypes about racial, ethnic, and religious minorities; gays and lesbians; and elderly and disabled persons.

52. The Department of Education should distribute a handbook on myths and stereotypes about gays and lesbians to teachers and administrators.

53. POST should issue guidelines that forbid discrimination against gays and lesbians in law enforcement hiring.

Assembly Bill No. 214

CHAPTER 936

An act to amend Section 11130.5 of, and to add Section 11130.3 to, the Government Code, relating to meetings of state bodies.

[Approved by Governor September 25, 1985. Filed with Secretary of State September 25, 1985.]

LEGISLATIVE COUNSEL'S DIGEST

AB 214, Connolly. State bodies: open meetings.

Existing law authorizes any interested person to commence an action by mandamus, injunction, or declaratory relief to stop or prevent violations or threatened violations of statutory provisions relating to open meetings of state bodies or to determine the application of those provisions.

This bill would authorize any interested person to commence an action by mandamus, injunction, or declaratory relief to determine if the action by the state body is null and void, within 30 days of the action by the state body. It would provide that any action taken in violation of the open meeting, notice, and specific agenda requirements shall not be determined null and void under certain specified conditions.

Existing law authorizes a court to award reasonable attorneys' fees to a plaintiff where it is found the state body has violated provisions of law relating to open meetings, or to a prevailing defendant in cases in which the court finds the action was clearly frivolous and totally lacking in merit.

This bill would authorize the award of reasonable attorneys' fees under specified circumstances in actions to determine null and void the actions of a state body.

*The people of the State of California do enact as follows:*

SECTION 1. Section 11130.3 is added to the Government Code, to read:

11130.3. (a) Any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of obtaining a judicial determination that an action taken by a state body in violation of Section 11123 or 11125 is null and void under this section. Any action seeking such a judicial determination shall be commenced within 30 days from the date the action was taken. Nothing in this section shall be construed to prevent a state body from curing or correcting an action challenged pursuant to this section.

(b) An action shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement related thereto.

(2) The action taken gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied.

(3) The action taken was in substantial compliance with Sections 11123 and 11125.

(4) The action taken was in connection with the collection of any tax.

SEC. 2. Section 11130.5 of the Government Code is amended to read:

11130.5. A court may award court costs and reasonable attorney's fees to the plaintiff in an action brought pursuant to Section 11130 or 11130.3 where it is found that a state body has violated the provisions of this article. The costs and fees shall be paid by the state body and shall not become a personal liability of any public officer or employee thereof.

A court may award court costs and reasonable attorney's fees to a defendant in any action brought pursuant to Section 11130 or 11130.3 where the defendant has prevailed in a final determination of the action and the court finds that the action was clearly frivolous and totally lacking in merit.

O

### **Panel proposes 'hate-crimes unit'**

OAKLAND (AP) — A state commission mandated to find ways to combat bigotry and racially rooted violence proposed several measures Wednesday, including a "hate-crimes unit" within the California Department of Justice.

Many of the recommendations of the Commission on Racial, Ethnic, Religious and Minority Violence suggested legislative action.

The minorities identified as targets of bigoted violence included blacks, Hispanics, Asians, unnamed religious groups, lesbians, homosexual men and the disabled.

*Sacramento Union*  
*January 16, 1985*



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#### PRESENTATION TO

#### ATTORNEY GENERAL'S

#### COMMISSION ON RACIAL, ETHNIC, RELIGIOUS, AND MINORITY VIOLENCE

Oakland, California

January 15, 1986

BY

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PRESIDENT

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## INTRODUCTION

Asian Pacific American Advocates of California (APAAC) is a State-wide non-partisan, non-profit coalition of nearly 500 Asian Pacific American (APA) Organizations in this state with headquarters in the state capital city of Sacramento. Its purpose is to advocate the common concerns shared by Asian Pacific Americans. More specifically APAAC's purposes are:

- To monitor, analyze and disseminate information on issues of concern to the Asian Pacific communities;

- To maintain a research capacity to identify and influence public policies affecting Asian Pacific Americans;

- To maintain an active, visible, and representative voice through the Sacramento office for California Asian Pacific American communities; and

- To educate the membership and general public about issues affecting Asian Pacific Americans.

APAAC is governed by a fifteen member Board of Governors selected by and from five regional governing boards to achieve geographical representation.

I am Dr. Allan L. Seid, President of APAAC's State Board of Governors, a Palo Alto Psychiatrist and Stanford Medical Center Clinical Faculty member by profession.

## ROOTS

The 1980's is a challenging time because there is across our land, frightening economic uncertainties which grow and persist; the deadly duo of inflation and recession strain purse-strings and psyches promoting distrust, insecurity, and an "each-man-for-himself" mentality. Students of American history know that economic hard times are accompanied by increased widespread anti-minority sentiments and actions. Specifically, there has already been severe and continuing erosion of civil rights--returning the mentality of "America for White Americans," and "America--love it or leave it," a resurgence of assimilationist ideology, and intolerance of diversity, a diminished sense of urgency and commitment to affirmative action programs, and increased ethnic isolation on and off the campuses.

For minority Americans of Asian Pacific ancestry, this hostile social climate sadly has been too frequently our collective and repetitive experience in America. The economic recession of the 1870's evoked mob violence and killings of Chinese and numerous discriminatory legislations which culminated with the infamous racist "Chinese Immigration Exclusion Law of 1882." In the recession of the early 1900's, identical animosities were directed at the Japanese beginning with the imposed 1906 "Gentlemen's Agreement" providing for "voluntary" numerical limitation of immigration by Japan, followed quickly by the 1913 discriminatory Alien Land Law forbidding land ownership by Asians, and peaking with the passage of the 1924 Japanese Immigration Exclusion Act. The recessions in the late 1920's repeated the earlier scenario of anti-Asian violence--now directed at the Filipinos who were recruited as laborers to replace the excluded

Japanese--the later who were themselves recruited earlier to substitute for the excluded Chinese. In 1939, capping a decade of anti-Filipino agitation, a Filipino Immigration Exclusion Act was similiary enacted.

Racism, wartime hysteria, and failure of political leadership in 1942 resulted in the internment of 120,000 Japanese American citizens and residents; they were pronounced "Guilty by race" without due judicial process. This Act was another sad chapter in American history.

Today we are here to address the resurgence of anti-Asian sentiments and actions. APAAC believes that the roots of anti-Asian animosity and violence can be attributed to at least the following factors:

- FIRST: Activation of pre-existing latent racism.
  - SECOND: Increased intolerance of cultural diversity in our society.
  - THIRD: National economic recession resulting in (a) massive lay-offs, high unemployment, and pervasive public feeling of financial insecurity, and (b) intensification of fierce competition for diminished job openings.
  - FOURTH: Large influx of new arrivals with non-caucasian physical features, different cultural practices and non-western languages from Southeast Asian and other Asian Countries over the last 10 years.
  - FIFTH: Scapegoating of Asian by both corporate management and labor union alike to cope with the sense of frustration, tension, helplessness, powerlessness, and hopelessness to stem, control, and reverse the economic recession.
  - SIXTH: Federal administrtion's fiscal policy of the last two years resulting in disproportionate hardships on the poor and lower-middle social economic citizens of American.
- A study by the non-partisan Congresssional Budget cuts endorsed by Presidnet Reagan and enacted by Congress over the last two

years hit poor families hardest. It said families making less than \$20,000 a year have borne 70 percent of the budget cuts and that average reductions in benefits per household are greatest for families earning below \$10,000.

The perceived pattern of anti-Asian discrimination and animosity being most prevalent among blue collar Whites, low income urban Blacks and Hispanic Americans---may in part be understood by the harsh realities delineated by the analysis of budget cuts' greater impact on the poor and those on the lower of the income ladder. In addition, innumerable well-conceived studies from the field of psychiatry, psychology, sociology and other behavioral sciences for more than a century in America have repeatedly demonstrated close correlation between poverty and increased prevalence and incidence of poor physical and mental health. Moreover, people in poverty were found to have markedly diminished capacity to utilize constructive rather than destructive behaviors to cope and control feelings of helplessness and hopelessness; hostilities and frustrations were more frequently acted out in violent and physically assaultive behaviors; scapegoating was a common defense utilized to ward off any personal responsibility or guilt for current suffering and stress.

SEVENTH: Another source of friction and misunderstanding emanates from the new media.

The new media, by and large, has not been giving the kind of portrayals that are crucial to counter-act the anti-Asian sentiment. Most of the printed news and television coverages are negative with reference to refugees. They accentuate the curious, sensationalize the negatives, and focus on differences in cultural practices and values leaving readers or viewers with the

Impression that "strange and treatening foreigners are among us" rather than "new Americans with potentially enriching characteristics and life-styles are residing in our community."

Eighth: Failure of Political Leadership at the Federal and State Level. At the federal level, domestic budget cut-backs with inordinate negative impact on the poor and lower-middle class has already mentioned. Federal domestic meat-ax reductions in public human services (health, mental health, education, social services, etc.) designed to serve the poor and lower-middle class populations were specially ill-timed and inhumane; these populations are precisely the ones needing these services more acutely as a result of economic recession and federal adopted fiscal policies. Another short-sighted federal fiscal act was the premature large reduction in refugee assistance monies to State still experiencing high demand for necessary basis human services by new arrivals to their jurisdiction. Alteration of federal regulations for reimbursements served to further diminished needed assistance for cost effective and human resettlement. The block grant approach to streamline federal expenditures have in practice already proven to be a disaster; instead of giving rise to more cost effective services, it has removed needed services resulting in widespread human suffering and with regards to Asian refugees and immigrants, placed them in the unenviable position of competing with other needy populations and urban minorities for reduced rescues.

Our state legislature in 1981 through budget control language prioritized federal monies for federally funded services for refugees based on ill advised assumptions and unrealistic expectations. Social adjustment, mental health, health, and other

human support services were prioritized so as to be excluded for funding and monies were concentrated on employment related services such as language assistance, job training, and placement. The fatal flaw simply is that traumatized victims of war, more accustomed to an agrarian existence attempting resettlement in a new, industrialized and largely urban society require human support services in order to be sufficiently intact emotionally and psychologically to learn, assimilate, and integrate a new language and new job skills. Withdrawal of the human support services left essentially a population facing unrealistic expectations for rapid language acquisition and successful job skill development. Blaming the victim for staying on the meager temporary and short-term public assistance programs is to miss the mark. Finally, the state "CAP" on expenditures to 2% per year for expansion of adult education programs need to be overhauled. Currently eager Asian refugees and immigrants anxious to learn English are turned away by the hundreds in urban center populated heavily by newcomers due to limited available classes. Ridiculous long waiting lists for Asian immigrants and refugees compound their problems to develop financial self-sufficiency.

ROAR

The roar of anti-Asian animosity and violence has indeed been loud. Each anti-Asian incident taken singularly can be mistakenly dismissed as an isolated event. But each incident analyzed carefully reveals a pattern unmistakably linked collectively to an alarming wave of anti-Asian animosity and violence sweeping throughout our state and across our nation. Its manifestations are many and varied.

Killings are but one of the more dramatic anti-Asian incidents. Most renowned, due to outrageously poor judicial handling, was the fatal baseball bat clubbing of Chinese American, Vincent Chin, by two white unemployed Detroit auto workers. The admitted killers mistook Chin for a Japanese national and vented their hostilities toward Japan---the nation allegedly responsible for the high unemployment rate in the U.S. auto industry. The light sentencing of the two killers sparked a wave of indignation and anger in Asian communities throughout the nation and has at this point brought forth a federal grand jury indictment for civil rights violations by the two assailants,

The fatal stabbing of Thong Hy Huynh, a 17 year old Davis High School student on May 4, 1983, following weeks of racial tension in the school is another tragic incident with racial undertones; the assailant remains free on appeal of a lower court ruling that he be tried as an adult.

Thong Sou Kaseume, a Laotian newcomer and four year resident of Fort Dodge Iowa, was mistaken for a Japanese and attacked last month. His assailant almost cut the victim's ear off with a knife during the vicious assault. The judge provided no imprisonment, no fine, no probation for the person responsible for this attempt on Kaseume's life. Instead, the assailant was released with the proviso that he write an essay on the Laotian culture as his punishment for attempt murder.

Another baseball bat murder, this summer in Dallas, Texas, of Cambodian leader Mr. Pech remains unresolved. The characteristics of this killing

resembles too painfully the murder of Vincent Chin.

Other headlines of bodily violence against Asians within this year alone are follows: Six year old Asian girl abducted and slain (Nga Thi Nguyen), Garden Grove, CA.; Sniper shot kills Vietnamese widow, (Trac Thi Vu), Los Angeles, CA.; Asian shop owner slain by three teenagers, Pasadena, CA.; Brutal rape and murder of Asian women, Washington D.S.; Violent beating and rape of Asian women, Huston, Texas; Oriental women found dead off Pescadero Water, Redwood City, CA.; Shot-gun wounding of 10 year old Cambodian (Chansophea Nhim), Huston, Texas; Chinese-American fatally stabbed in traffic dispute (Paul Wu), San Francisco, CA. Chinese policeman Frank Lowe felled by shot, Oakland, CA.; Quick action averts shot-gun fight between Laotian and White Neighbor, San Jose, CA.; Fatal attacks on Asian have also been reported in Boston, New York, and other East Coast cities.

Property damage associated with and without personal assaults have also been prevalent.

One on-going explosive situation exists between White and Vietnamese fishermen at Moss Landing, Monterey County. Tension between the two groups have flared up all summer resulting in racial hostilities, physical harassment and the burning of Vietnamese boats.

In addition the Vietnamese have been taunted and shoved around by unidentified assailants, had their nets stolen, their boats untied in the middle of the night and their nets sliced by speeding American boats. Boycotting of the catch by local buyers have forced the Vietnamese to travel long, costly, and time-consuming distances to make sales essential for survival.

Another example of employment competition induced anti-Asian animosity and violence surfaced last July in the San Joaquin agricultural area. A week long confrontation between 350 protesting Mexican-American tomato pickers and a large number of unwitting Indochinese "strikebreakers" occurred in Stockton, CA. - The confrontation flared into violence on two days when a dozen Chicanos were arrested and several injured after they charged through police lines into the



fields where Southeast Asians and others had replaced them.

The Indochinese, most of whom speak neither English or Spanish, some who cannot read or write, who have no concept of labor unions and little knowledge of fair labor laws, salaries and practices, and willing to work for below union wages--are unwittingly caught between two antagonistic forces--the unions and the agricultural employers. Similar tensions and confrontations are predicted in other agricultural areas of California; another potential explosive area is in Fresno County where large number of Hmong-Laotian have settled. Rapid intervention is sorely needed in the agricultural areas to avert additional confrontations or tragedies.

Anti-Asian animosity and violence also exist in the professions as illustrated by the following two examples:

Graduates from medical schools in Asia and other countries, despite passing the American Foreign Medical Graduate Licensure Examination, are systematically denied hospital internships which is required to obtain a medical license to legally practice medicine. A billion dollar lawsuit has been filed by two Filipino physicians against the American Medical Association, American Hospital Association and other related parties. The suit seeks to overturn the arbitrary barrier to hospital internships. The suit supported by The Association of Philippine Practicing Physicians in America.

The second example is that of the three year long battle, thus far unsuccessful, of Southeast Asian graduates of Pharmacy School to obtain licensure to practice without repeating training which they have had. Rigid and unreasonable demand for unobtainable documents of training from schools in countries now controlled by the communist has been the barrier. Many of the pharmacy schools have been destroyed or closed by the new regimes; those schools still existing will not forward transcripts to its graduates who are considered traitors by virtue of collaboration with the Americans. As a result, large numbers of well-trained and qualified pharmacist are relegated to other employment.

Another anti-Asian vandal incident illustrating the interplay of the three factors of racism, economic woes, and scapegoating is the painting of the word "JAP" on the garage door of a Japanese American congressman from California. This same American born congressman was vilified on a radio talk show for attack on Pearl Harbor when he out for reparation for Japanese American incarcerated in camps during World War II.

Other property damage incidents suspiciously suggesting anti-Asian motivation include the following occurrences:

(a) Recently the home of a Chinese American (Pauline Tseng) in Los Angeles was severely damaged by a mysterious explosion; (b) During the last July 4th weekend, tires were slashed on 31 autos in the San Jose Laotian community; (c) Vandalism of signs at the historical site of China Camp, Marin County have repeatedly occurred this year; (d) Repeated cross-burnings were perpetrated on the lawn of a Filipino family (David family) last December in San Leandro, CA.; (e) Another mysterious fire damage of a Nikkei's home (Geroge Amamoto) in San Mateo, CA. was reported last August; (f) One week ago, vandals damaged or destroyed 71 Japanese tombstones at the Mountain View Cemetery in Fresno, CA.---initial damage estimate is reported to be at least \$20,000 not including of course the priceless sentimental value.

Another manifestation of anti-Asian animosity and violence is that perpetrated by the printed and electronic media. Whether inadvertent or deliberate, negative and inaccurate portrayals of Asian in America inflame latent racist attitudes and behavior toward Americans of Asian Pacific descent.

Time magazine's feature article (July 13, 1983 issue) entitled "Los Angeles--- America's New Uneasy Melting Pot" in its July 13, 1983 issue was a disservice to all Americans because of its inaccurate and derogatory portrayals of Asian immigrants; it was particularly demeaning of the Los Angeles Korean Community and served to heighten inter-group tensions already extant in the region. Especially disturbing was the magazine's refusal to acknowledge legitimate and

knowledgable critical analysis of the content and thrust of the article.

Last July, The Tacoma News Tribune's five part series entitled "The Korean Influence" appeared to be declaring an open season on Tacoma Washington's Korean American Community.

The newspaper ran such "Scare Tactics" and "Racist" headlines as

"Trickle Turned Into a Flood of Immigrants"

"U.S. Now Open Its Door to 30,000 Koreans Each Year"

"Marriage Can Be Ticket to U.S."

"Immigration Laws Favor Spouses and Open Gates to Their Families"

"I Do' Can Put a Korean in the U.S.---Quickly"

"Some Koreans Till a Fertile Field --Here - Crime"

Such Journalism pander to the lowest racist instincts of bigots and is a manifestation of anti-Asian sentiment and violence.

Similarly newspaper and magazine headlines such as "Koreans Invade Sillicon Valley" (San Jose Mercury News) and "Spy in Silicon Valley" (Fortune Magazine, February 1979) evoke images of the "Yellow Hordes of Gengis Khan" and damage inter-group harmony in communities.

Finally, a recent semi-documentary portrayal of Korean immigrants on a major television network was not only inaccurate but offensive. Misinformation about Asian Americans transmitted by the electronic media is not only powerful but serves to undergird pre-existing stereotypes, develops new misunderstanding and ill-will between Asian and non-Asian American citizens.

Inaccurate portrayals in printed and electronic media has and continues to be a source and stimulant for anti-Asian animosity and violence.

The Los Angeles Times article of June 2, 1983 highlights another manifestation of and source for anti-Asian animosity and violence---namely "Boosterism". It insightfully suggests that the "Detroit (Chin) Killing Shows that Boosterism Can breed Racism" I quote:

"In the Motor City, which has one of the highest unemployment rates

in the country the issue of imported cars is an emotional one. At the United Auto Workers headquarters here, Foreign cars are prohibited from entering the parking lot. Whenever a government agency buys an imported auto it finds itself at the receiving end of furious newspaper editorial. A locally produced record entitled "Wee Foo Yoo" in which a laughing Asian-Accented voice ridicules a General Motors-Toyota agreement, enjoyed a brief popularity on the air waves.

The Chin Case illuminated an ominous flip side to local boosterism. As Chinatown's Yee explained, "Ebens" ...racial hatred was so strong that he just wanted to get an Asian any Asian.

"Real Americans Buy American" continues to be one of the more popular saying gracing the large chrome bumpers of cars in Detroit. The case of Vincent Chin has peeled back those slogans showing that what makes them cling to the chrome is a powerful and ugly undercurrent of racism. It's a revelation that we Detroiters will not soon forget."

Indeed bumper stickers with such slogans as "Toyota-Datsun-Honda and Pearl Harbor" and "Unemployment-Made in Japan" are both a source and a manifestation of anti-Asian sentiments and actions.



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## S P E C I F I C   R E C O M M E N D A T I O N S

A. Specific Hate Crime Legislation should be enacted with the following provisions:

1. Provisions to require law enforcement agencies to report "Hate Crimes" to the Department of Justice.
2. Statutes authorizing and funding technical assistance to law enforcement agencies for implementing reporting system.
3. Provisions to require the California Department of Justice to collect and disseminate information on the incidence of hate crimes.
4. Provisions authorizing and funding a "Hate Crime Unit" in the California Department of Justice responsible for data compilation, analysis, report preparation and publication, distribution and publicizing to at least the following:
  - a) Law Enforcement Agencies
  - b) School Boards and School Administrators
  - c) Human Relations Commission
  - d) Community Organizations
  - e) Media
  - f) Others
5. Increasing the penalties for specific crimes based on race, religion, ethnicity etc.

B. APAAC supports the following recommendations on training.

1. Basic police academy courses should include training on cultural differences and racial, ethnic, religious and minority violence.
2. The Attorney General should appoint a committee of POST and minority community representatives to set specific training objectives on racial, ethnic, religious and minority violence.
3. The recommended committee composed of POST and minority community representatives should review course materials and curriculums designed to meet the training objectives they set and review resumes of appropriate trainers. Recommended materials, curriculums and lists of certified trainers should be circulated to all police academies in California.
4. POST should work with minority community representatives to design training objectives for field training officers on cultural differences and racial, ethnic, religious and minority violence. The objectives should be incorporated into existing field training programs.
5. POST should certify and provide reimbursement for advanced officer courses providing information on preventing community disruption.
6. The California Department of Justice Civil Rights Division should work with minority community representatives and district attorneys to develop educational programs and materials focusing on, but not limited to, Section 11410 (terrorizing), Section 11411 (burning or desecration of religious symbols, placement or display of physical impressions), and Section 11412 (threats obstructing exercise of religion) of the California Penal Code.

7. The Department of Justice should distribute model procedures to assess the potential for racial, religious, ethnic and minority conflict to law enforcement agencies.
8. Office of Criminal Justice Planning funds should be made available to law enforcement agencies and community organizations to develop procedures for preventing racial, ethnic, religious and minority violence.
9. Office of Criminal Justice Planning funds should be made available to community organizations for establishing programs for victims and witnesses of hate crimes and to establish working agreements between the programs and district attorneys.
10. Legislation should be introduced that prohibits the release of names and addresses of victims of hate crimes to the media.
11. The Department of Justice should sponsor a conference to examine existing local law enforcement policies on immigration and their ramifications on hate crimes.

C. APAAC supports the following recommendation regarding the Ralph Act:

1. A statute patterned after California Civil Code Section 48.7 should be enacted to bar libel and other counter claims in Ralph Act actions until the Ralph Act action has been resolved.
2. Legislation should be enacted to provide for calendar preference for Ralph Act actions.
3. The Ralph Act and the Unruh Act should be amended to clearly state that the Fair Employment and Housing Commission has jurisdiction in action involving violence motivated by bigotry.
4. The Attorney General should create a staff unit to monitor Ralph Act actions.
5. The Attorney General should recommend the development of Judicial Council forms and procedures patterned after those utilized in domestic violence cases to facilitate restraining orders and other forms of injunctive relief for victims of hate crimes.
6. The Ralph Act should be amended to treble the actual damages awarded.
7. Legislation should be enacted to authorize state funds to provide costs and attorneys fees for plaintiffs who prevail in Ralph Act actions and in seeking injunctive relief against hate violence when the defendant(s) is (are) judgment proof.

D. APAAC supports the following recommendations regarding schools:

1. The Department of Education should be budgeted to provide local schools with technical assistance to join with human relation agencies in designing and implementing strategies to reduce racial, ethnic, religious and minority violence.

2. California Penal Code Section 628 et. seq. should be amended to include specific notation of incidents of racial, ethnic, religious or minority violence. Reports should be required to be sent to local school boards and local human rights agencies as well as those agencies specified in existing legislation.
3. The Department of Education should compile a list of human rights resources for schools within California and distribute them to reach school district.
4. The Department of Education publish and distribute a hand book on myths and stereotypes of diverse people comprising the American citizenry.
5. The Department of Education working with Law Enforcement Agencies, Human Relations Commissions and Community Organizations to
  - 1) Re-institute multicultural education classes either as specific course offerings or as a significant part of the requires social studies currilums.
  - 2) Strengthen the Department's and State Board of Ecuation's Curriculum Commission's committee mandate to review textbooks and other curriculum materials for legal compliance to be racist-free and sexist-free.
6. The Department of Education should provide training for teachers and administrators on sensitivity to cultural diversity, effective teaching of human relations and cultural awareness, and response to violence motivated by bigotry.

APAAC recommends the establishment of a perminent State Commission on Racial, Ethnic, Religious and Minority Violence with a specific standing committee on Asian Pacific Americans and one each for other major racial/religious groups.

APAAC recommends that the Attorney General take action to increase the awareness of the media of their responsibility to portray positive images of all racial, ethnic, religious, and minority groups and of their role in preventing and responding to hate crime through effective reporting.